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AGRICULTURAL ADJUSTMENT ADMINISTRATION

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PROPOSED

CODE OF FAIR COMPETITION FOR THE ALCOHOLIC BEVERAGE WHOLESALE INDUSTRY,

(EXCLUSIVE OF PROVISIONS RELATING TO HOURS OF LABOR, RATES OF PAY AND OTHER CONDITIONS OF EMPLOYMENT)

- -

This proposed Code of Fair Competition for the Alcoholic Beverage Wholesale Industry which has been prepared by and incorporates the policies of the President's Special Committee on Control of Alcohol and Alcoholic Beverages, is presented by the Secretary of Agriculture upon his own motion pursuant to Section 3 (d) of the National Industrial Recovery Act and Executive Orders under said Act. The proposed Code has been set for hearing on Monday, December 4, 1933. The Document is not to be regarded as an expression of the final views of the Special Committee.

CODE OF FAIR COMPETITION FOR THE ALCOHOLIC BEVERAGE WHOLESALE INDUSTRY.

ARTICLE I

Purposes.

WHEREAS, it is the declared policy of Congress as set forth in Section 1 of Title 1 of the National Industrial Recovery Act:

> To remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, to induce and maintain united action of labor, and management under competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources.

And --

WHEREAS, Congress has not had opportunity to legislate on liquor control following the repeal of the Eighteenth Amendment, and

WHEREAS, the Twenty-first Amendment provides in part as follows:

> The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

And --

WHEREAS, it is in the best interests of the public that all industries engaged in the production or distribution of alcoholic beverages shall limit their activities to their reasonable and immediate requirements until such time as Congress may consider appropriate legislation relating to such industries, --

NOW, THEREFORE, to effectuate the foregoing policies, the following provisions are prescribed and approved by the President as a Code of Fair Competition for the alcoholic beverage wholesale industry, and shall be the standards of fair competition for such industry and be binding upon every member of such industry in the United States; and neither the promulgation of this Code nor any action taken thereunder by the Federal Alcohol Control Administration, the Code Authority, or by any member of the alcoholic beverage wholesale industry shall be construed as giving any member of such industry a vested right to continue to participate in the distribution of alcoholic beverages in the United States.

ARTICLE II

Definitions

Section 1. As used in this Code,--

(a) The term "President" means the President of the United States.

(b) The term "Act" means Title 1 of the National Industrial Recovery Act, approved June 16, 1933.

(c) The term "person" means individual, partnership, corporation, association, and any other business unit.

(d) The terms"alcoholic beverage wholesale industry" and "industry" mean the purchase and sale of any alcoholic beverage; except purchase and sale at retail or for export, or sale by distillers, rectifiers, blenders, or importers of alcoholic beverages produced or imported by them.

(e) The term "distilled spirits" means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin and other distilled spirits for beverage use, including all dilutions and mixtures thereof.

(f) The term "alcoholic beverages" means any liquor for beverage use containing more than one-half of one percent of alcohol by volume.

(g) The term "beverage use" means beverage, medicinal, culinary, or any other use, except use for industrial purposes.

(h) The term "fortified wine" means a natural wine to which has been added brandy or other distilled spirits.

(i) The term "employee" means any person engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

(j) The term "employer" means any person by whom any such employee is compensated or employed.

(k) The term "member of the industry" means any person engaged in the industry as an employer or on his own behalf.

(l) The term "Administration" means the Federal Alcohol Control Administration.

(m) The term "director" means the director of the Federal Alcohol Control Administration.

(n) The term "Code Authority" means the industry authority which may be established pursuant to this Code.

(o) The term "United States" means the several States and Territories, the District of Columbia, and Puerto Rico.

(p) The term "State" includes Territory and the District of Columbia.

(q) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to the business of the person in question.

(r) The term "subsidiary" means any person, of or over whom, a member of the industry has either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(s) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a member of the industry whether by stock ownership or in any other manner.

(t) The term "trade buyer" means any buyer of alcoholic beverage except an ultimate consumer buyer.

ARTICLE III

Mandatory Labor Provisions

Section 1. Employees shall have the right to organize and

bargain collectively through representatives of their own choosing, and shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or other mutual aid or protection.

Section 2. No employee and no one seeking employment shall be required as a condition of employment, to join any company union or refrain from joining, organizing, or assisting a labor organization of his own choosing.

Section 3. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

ARTICLE IV

Permits

Section 1. From and after such date as the Administration shall specify, no person in the alcoholic beverage wholesale industry selling distilled spirits or fortified wines, shall engage in such industry except pursuant to a permit issued by the director. Any member of the industry engaged in the purchase and sale of distilled spirits or fortified wines shall be entitled to have such a permit issued to him upon application therefor.

Section 2. Any permit issued hereunder shall remain in effect during the duration of this Code unless suspended or revoked as hereinafter provided. Such permit shall be conditioned on the observance by the permittee of the provisions of this Code (other than the provisions of Article III) and regulations issued thereunder. Such permit shall not be taken or held to create in any permittee any vested right as to any standard of profits or volume of business, or any right to engage in the distribution of any class of alcoholic beverages after the termination of the permit.

Section 3. Any such permit may, after due notice and opportunity for hearing, be suspended or revoked by the director, with the approval of the Administration, for violation of any term or condition thereof.

Section 4. Nothing in this Article shall be construed to limit or modify any procedure or remedy which may be available for the enforcement of the provisions of this Code.

SUBSTITUTE FOR THE SECOND SENTENCE OF ARTICLE IV, SECTION 1, OF PROPOSED CODE OF FAIR COMPETITION FOR THE ALCOHOLIC BEVERAGE WHOLESALE INDUSTRY.

Permits shall be issued, upon application therefor, to the following classes of persons: (a) Members of the industry already holding other permits for the purchase and sale of distilled spirits and fortified wines issued pursuant to Federal authority; or holding permits issued to distillers, rectifiers, or importers pursuant to Codes of Fair Competition approved by the President; (b) persons engaged, on the date of repeal of the Eighteenth Amendment, or of the approval of this Code, whichever is earlier, in the business of wholesale distribution of foods or drugs; and (c) cooperative associations of producers of spirits or fortified wines. If the Administration finds that additional facilities are necessary for the wholesale distribution of any class of spirits or fortified wines, it may, after due notice and opportunity for hearing, issue permits to persons other than those specified above, to carry on business as members of the industry.

ARTICLE V

Unfair Methods of Competition

The following practices constitute unfair methods of competition and shall not be engaged in with respect to alcoholic beverages by any member of the industry:

Section 1. False Advertising. To publish or disseminate in any manner any false advertisement of any alcoholic beverage. An advertisement shall be deemed to be false if it is untrue in any particulr, or if directly or by ambiguity, omission, or inference, it tends to create a misleading impression.

Section 2. Misbranding. To sell or otherwise introduce into commerce any alcoholic beverages that are misbranded unless the member of the industry can establish a guaranty valid under section 9 of the Food and Drugs Act or under regulations prescribed by the Administration. Alcoholic beverages shall be deemed to be misbranded -

(a) Food and Drugs Act Requirements. If they are misbranded within the meaning of the Food and Drugs Act.

(b) Standards of Fill. If their container is so made, formed or filled as to mislead the purchaser or its contents fall below the standard of fill prescribed by regulations of the Administration.

(c) Standards of Identity. If they purport to be or are represented as alcoholic beverages for which a definition of identity has been prescribed by regulations of the Administration and they fail to conform to the definition.

(d) Standards of Quality. If they purport to be or are represented as alcoholic beverages for which standards of quality have been prescribed by regulations of the Administration, and (1) fail to state on the label, if so required by the regulations, their standard of quality in such terms as the regulations specify, or (2) fall below the standard stated on the label.

(c) Label Requirements. If in package form and they fail to bear a label conforming to such requirements as the Administration may by regulation prescribe. Regulations for the purposes of this subsection shall be prescribed by the Administration but only after due notice and opportunity for hearing to the members of the industry.

Section 3. Commercial Bribery. To give or permit to be given money or anything of substantial value for the purpose of influencing persons (a) to purchase alcoholic beverages of a particular brand or from a particular person, or (b) to refrain from purchasing from or dealing with particular persons.

Section 4. Shipment or Delivery on Consignment. To enter into any agreement (except for export) for the shipment or delivery of alcoholic beverages on consignment.

Section 5. Allowances and Rebates for Advertising and Distribution Service. To pay a trade buyer for a special advertising or distributing service, (a) unless in pursuance of a written contract defining the service to be rendered and the payment therefor; and (b) unless such service is rendered and the payment is reasonable and not excessive in amount; and (c) unless such contract is separate and distinct from any sales price and is not designed or used to reduce a sales price; and (d) unless a copy of each such contract is filed with the Code Authority. This section shall not apply to any contract made prior to the effective date of this Code.

Section 6. Guarantees Against Decline. To make or give to any purchaser of alcoholic beverages any guarantee or allowance in any form against or as a result of decline in the seller's price thereof; except pursuant to a contract made prior to the effective date of this Code.

Section 7. Prizes and Premiums. To offer any prize, premium gift, or other similar inducement to either a trade or consumer buyer.

Section 8. Control of Retail Outlets. To hold any interest in any license for the sale of alcoholic beverages at retail for consumption on the premises; or directly or indirectly, to participate or engaged in the sale of alcoholic beverages at retail for consumption on the premises; or to control, employ, manage, or financially assist in any manner, any person engaging in the retail sale of alcoholic beverages; or to hold any interest in any premises on which alcoholic beverages are sold at retail for consumption on the premises, except as permitted under regulations of the Administration and except if a statement thereof has been filed with the Administration and has not been disapproved by it; provided that this section shall not be held to prohibit the granting of the credits ordinarily extended by the industry with respect to the sale of alcoholic beverages.

Section 9. Sales to Unauthorized Vendors. To sell or otherwise dispose of alcoholic beverages to any person not authorized by license, in full force and effect, to sell, manufacture or distribute alcoholic beverages, if such license is required of such person by State law; or to sell or otherwise dispose of alcoholic beverages to any member of an industry covered by any code under the Act pertaining to alcoholic beverages, if such member is engaged in business without a permit in full force and effect under such code and such permit is required by the Code.

Section 10. Violations of State Law. To transport or import alcoholic beverages into any State or political subdivision thereof for delivery, sale, or use therein in violation of the law of such State.

Section 11. Exclusive Outlets. To exact or require, by contract, understanding or otherwise, that any trade buyer who is engaged in the sale of alcoholic beverages at retail for consumption on the premises, handle or sell only the products of a particular member of the industry.

ARTICLE VI

Bottling

Section 1. Members of the industry shall sell or dispose of distilled spirits in bottles only, except in case of sales to dispensaries or other agencies operated and maintained by any State or political subdivision thereof, or sales for export or for shipment in bond. Nothing in this section shall restrict the sale or other disposition of warehouse receipts covering distilled spirits in bond, provided such receipts require the bottling of the distilled spirits prior to removal from the warehouse.

ARTICLE VII

Prices and Terms of Sale

Section 1. Each member of the industry shall, to the extent required by regulations of the Administration or of the Code Authority, keep posted with the Code Authority, in accordance with regulations prescribed by it and approved by the Administration, and upon request make available to trade and consumer buyers, a price list which shall set forth (a) all the brands and types of distilled spirits or fortified wines offered for sale by such member, (b) the sale price thereof to various classes of trade buyers, and (c) all discounts and other terms of sale of such distilled spirits or fortified wines.

Sec. 2. The Code Authority shall file with the Administration a copy of each price list so posted. The Code Authority shall, upon request, make available such price lists to trade and consumer buyers.

Sec. 3. No sale or other disposition of distilled spirits or fortified wines shall be made by any member of the industry except in accordance with its prices and terms so posted and in effect.

Sec. 4. No member of the industry shall post or keep posted any price or term which (a) will constitute destructive price cutting, or (b) be so high as to encourage, directly or indirectly, the sale of distilled spirits in violation of law, or (c) be oppressive to the consumer. A posted price or term shall not be held to be in violation of this section unless it is kept posted after it has been declared ineffective by the Code Authority or the Administration, as hereinafter in this Article provided.

Sec. 5. If, after investigation, the Code Authority finds that any price or term posted under this Article is not in conformity with the requirements of Section 4, it shall, with the approval of the Administration, declare such price or term ineffective.

Sec. 6. I f the Administration is of the opinion that the prices or terms posted for any class or type of distilled spirits or fortified wines are contrary to the requirements of Section 4, it may report such fact to the Code Authority. I f the Code Authority does not within 10

days take action acceptable to the Administration, the Administration may then declare such prices or terms ineffective, if it finds that they are not in conformity with the requirements of Section 4.

Sec. 7. The payment by any member of the industry of allowances or rebates, refunds, concessions, or discounts, whether in the form of money or otherwise, not conforming with the prices and terms as disclosed in the posted price list of sale, is prohibited.

Sec. 8. The posting or publishing of any false or fictitious price list, or the use of invoices which falsely indicate prices, discounts or terms of any sale, or the inserting in any invoice of statements which make the invoice a false record, wholly or in part, of the transaction represented on the face thereof, or the withholding from any invoice of statements which properly should be included therein, so that, in the absence of such statement, the invoice does not truly reflect the transaction involved, is prohibited.

ARTICLE VIII

Reports

Section 1. The members of the industry shall severally, from time to time, upon the request of the Administration (or the National Recovery Administrator in case of information relating to hours of labor, rates of pay, or other conditions of employment) furnish such information on and in accordance with forms of reports to be supplied, as may be deemed necessary for the purposes of (a) assisting in the furtherance of the powers and duties of the Administration or the National Recovery Administrator with respect to this Code, or (b) enabling the Administration or the National Recovery Administrator to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Code are being affected, such reports to be verified under oath.

Sec. 2. The members of the industry shall severally permit, for the same purposes or to enable the Administration or the National Recovery Administrator to verify the information furnished on said forms of reports, all their books and records and the books and records of their affiliates and subsidiaries, to be examined by the Administration or the National Recovery Administrator during the usual hours of business.

Sec. 3. Each member of the industry shall severally keep books and records which will clearly reflect all financial transactions of his business and the financial condition thereof and such other matters relating to the business of the member of the Administration may by regulation prescribe, and shall require that his subsidiaries and affiliates keep such records.

Sec. 4. All information furnished the Administration pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration.

ARTICLE IX.

Code Authority

Section 1. There shall be a Code Authority selected by the members of the industry pursuant to a plan submitted by members of the industry and approved by the Administration. The members of the Code Authority shall be subject to the approval of the Administration and shall be subject to removal in the discretion of the Administration. The powers and duties of the Code Authority shall be as follows:

(a) To administer the provisions of this Code (except as otherwise provided) subject to the approval of the Administration and to foster and promote the observance of this Code by the members of the industry.

(b) To prescribe rules for the performance of its function subject to the approval of the administration.

(c) To recommend to the Administration amendments to this Code.

(d) To cooperate with and assist the Administration, as the Administration from time to time may request, in carrying out its functions under this Code.

(e) To make reports to the Administration from time to time on problems relating to the industry affecting the administration of this Code.

(f) To receive and investigate charges of apparent violation of this Code and to report to the Administration its findings of fact on such charges.

This paragraph shall not be construed to derogate from or limit the powers of the Administration to investigate apparent violations of this Code and to take such action in the premises as it deems desirable.

Section 2. If the members of the industry fail to submit a plan under Section 1 within ten days after the effective date of this Code or the plan submitted is not approved by the Administration, then the Administration may establish and provided for the selection of the members of the Code Authority according to a plan prescribed by the Administration.

ARTICLE X

Federal Alcohol Control Administration

Section 1. The Administration shall prescribe such regulations as may be provided for in this Code or as may be reasonably necessary to carry out the provisions of this Code which it is authorized to administer, and may make such interpretations of such provisions and regulations as it deems necessary. Such regulations and interpretations shall have the same force and effect as the provisions of this Code.

Section 2. The Administration may investigate any apparent violation of the provisions of this Code and may take such action in the premises as it deems necessary.

ARTICLE XI

Duration of Immunities.

Section 1. The benefits, privileges and immunities conferred by this Code shall cease upon its termination except with respect to acts done prior thereto.

ARTICLE XII

Agents.

Section 1. The Administration and the National Recovery Administrator may by designation in writing name any person, including any officer or employee of the Government, to act as agent in connection with their respective powers and duties under this Code.

ARTICLE XIII

Modification

Section 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of Section 10 (b) of the Act, from time to time, to cancel or modify any order, approval, license, rule or regulation, issued under the Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval, of the Code or any conditions imposed by him upon his approval thereof.

ARTICLE XIV

Application of Code to Other Industries.

Section 1. If any member of the industry is also engaged in any other industry or trade, the provisions of this Code shall apply to and affect only that part of the business of such member of the industry which is included in the alcoholic beverage wholesale industry.

ARTICLE XV

Effective Time.

Section 1. This Code shall become effective on the day following its approval by the President.

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AGRICULTURAL ADJUSTMENT ADMINISTRATION

SUBSTITUTE FOR THE PROPOSED CODE OF FAIR COMPETITION FOR THE ALCOHOLIC BEVERAGES IMPORTING INDUSTRY AS SET FOR HEARING ON November 29, 1933.

This document has been filed with the Chief Hearing Clerk, Agricultural Adjustment Administration, as a tentative substitute for the proposed Code of Fair Competition for the Alcoholic Beverages Importing Industry, other than the labor provisions, which have been set for hearing on Wednesday, November, 29, 1933. The substitute will be offered for the record on behalf of the President's Special Committee on the Control of Alcohol and Alcoholic Beverages, at the hearing upon the proposed Code of Fair Competition. The substitute is presented as a basis for developing evidence at the hearing with respect to the policies incorporated in the substitute, and is not to be regarded as an expression of the final views of the Special Committee.

CODE OF FAIR COMPETITION FOR THE ALCOHOLIC BEVERAGES IMPORTING INDUSTRY

ARTICLE I

Purposes

WHEREAS, it is the declared policy of Congress as set forth in Section I of Title I of the National Industrial Recovery Act:

> To remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provided for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, to induce and maintain united action of labor, and management under competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor and otherwise to rehabilitate industry and to conserve natural resources.

And --

WHEREAS, Congress has not had opportunity to legislate on liquor control following the repeal of the Eighteenth Amendment, and

WHEREAS, the twenty-first Amendment provides in part as follows:

> The transportation or importation into any State Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws, thereof, is hereby prohibited.

And --

WHEREAS, it is in the best interests of the public that all industries engaged in the importation and distribution of alcoholic beverages shall limit their activities to their reasonable and immediate requirements until such time as Congress may consider appropriate legislation relating to such industries, --

NOW, THEREFORE, to effectuate the foregoing policies the following provisions are established as a Code of Fair Competition for the Alcoholic Beverages Importing Industry and upon approval by the President shall be the standards of fair competition for such industry and shall be binding upon every member of such industry in the United States, and neither the promulgation of this Code nor any action taken thereunder by the Federal Alcohol Control Administration or by any member of the industry shall be construed as giving any such member a vested right to continue to participate in the importation and distribution of alcoholic beverages in the United States.

ARTICLE II

Definitions.

Section 1. As used in this Code: --

(a) The term "President" means the President of the United States.

(b) The term "Act" means Title I of the National Industrial Recovery Act, approved June 16, 1933.

(c) The term "person" means individual, partnership, corporation, association, and any other business unit.

(d) The terms "alcoholic beverages importing industry" and "industry" means (a) the importing or bringing of alcohlic beverages into the United States (except in customs bond for trans-shipment to a foreign country) for sale or any other commercial purpose, or (b) the bottling, warehousing or otherhandling or distribution of alcoholic beverages so imported or brought in, or the sale or other disposition thereof, except at retail, by an importer or an affiliate or subsidiary thereof.

(e) The term "alcoholic beverages" means alcohol or alcoholic beverages containing more than one-half one per centum of alcohol by volume.

(f) The term "employee" means any person engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

(g) The term "employer" means any person by whom any such employee is compensated or employed.

(h) The term "watchmen" includes only employees whose principal function is watching and guarding the premises and property of the establishment.

(i) The term "outside salesmen" shall mean any salesmen who perform exclusively selling functions and do not deliver.

(j) The term "trade buyer" means any buyer as distinguished from ultimate consumer buyer.

(k) The term "member of the industry" means any person engaged in the industry as an employer or on his own behalf.

(l) The term "Administration" means the Federal Alcohol Control Administration.

(m) The term "Director" means the Director of the Federal Alcohol Control Administration.

(n) The term "Code Authority" means the authority established pursuant to Article X of this Code.

(o) The term "State" includes Territory and District of Columbia.

(p) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence or other written data pertaining to the business of the person in question.

(q) The term "subsidiary" means any person, of or over whom, a member of the industry has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(r) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a member of the industry, whether by stock ownerhip or in any other manner.

LABOR PROVISIONS

ARTICLE III

Hours of Labor

Section 1. No employee shall be permitted to work in excess of 42 hours in any one week or 8 hours in any one day or 6 days in any seven day period with the following exceptions:

(a) Executive, supervisory, technical and administrative employees provided that they receive regularly $35.00 a week or more, and outside salesmen.

(b) Technical men who are paid less than $35.00 per week and who do not constitute more than 2 percent of the total number of employees, but each plant shall be entitled to at least one.

(c) Watchmen, provided, however, that they shall not work more than 56 hours per week.

(d) Chauffeurs and deliverymen, provided, however, that they shall not work more than 48 hours per week nor more than 6 days in any seven day period.

Section 2. The maximum hours established shall not apply in those departments or divisions of the distilled spirits industry in which peak or seasonal demand places an unusual or temporary burden on production in such departments and divisions except that in such cases employees may work not to exceed 48 hours per week and 10 hours per day in any twenty weeks's period in any calendar year, but in any such case at least time and one-third shall be paid for all hours worked in excess of 42 hours per week and 8 hours per day.

Section 3. The maximum hours fixed in the foregoing sections shall not apply to employees on emergency repair work, provided that any such employee working in excess of forty-two hours per week or eight hours per day shall be paid at the rate of at least time and one-third for such overtime.

Section 4. No employer shall knowingly permit any employee to work for a total number of hours in excess of the number of hours prescribed for each week and day, whether employed by one or more employers.

ARTICLE IV

Wages

Section 1. No clerical, accounting or other office employee shall be paid at a rate of less than $16.00 per week, except that office boys and/or office girls and messengers may be employed at not less than $14.00 per week.

Section 2. No watchman shall be paid at a rate of less than $16.00 per week.

Section 3. No employee other than those covered in paragraphs (1) and (2) above shall be paid at a rate of less than 40¢ per hour.

Section 4. It is agreed that this Code guarantees a minimum rate of pay regardless of whether employee is compensated on the basis of time rate or piece work performance.

Section 5. It is agreed that equitable adjustments will be made in the cases of those employees now receiving more than the minimum in order to maintain fair differentials between employees.

ARTICLE V

General Labor Requirements

Section 1. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or other mutual aid or protection.

Section 2. No employee and no one seeking employment shall be required as a condition of employment, to join any company union or refrain from joining, organizing, or assisting a labor organization of his own choosing: and

Section 3. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

Section 4. On and after the effective date of this Code, no person under 18 years of age shall knowingly be permitted to work in the industry.

Section 5. Within each state, members of the industry shall comply with any valid laws of such state or valid local ordinances imposing more stringent requirements, regulating the minimum age of employment, wages, hours of work, health, fire or general working conditions, than under this Code, provided that any person violating any of the provisions thereof shall be amenable only to the penalties of such state law or local ordinances.

Section 6. Employers shall not reclassify employees or duties of occupations performed by employees for the purposes of defeating the provisions of the Act.

Section 7. Each employer shall post in a conspicuous place of easy and continuous access to employees the articles dealing with hours, wages, and general labor provisions of this Code.

Section 8. All changes in the provisions of Article III and IV, or of this Article, shall be posted within one week after such changes have been incorporated in the Code.

ARTICLE VI

PERMITS

Section 1. No person shall engage in business as a member of the alcoholic beverages industry except pursuant to a permit issued by the Director. Such permit shall be conditioned on the observance by the permittee of the provisions of this Code, (other than Articles III, IV and V), and regulations issued thereunder. Such permit shall not be taken or held to create in any permittee any vested right as to any standard of profits or volume of business or any right to engage in the importation or distribution of any class of alcoholic beverages after the termination of the permit.

Section 2. Any such permit may, after due notice and opportunity for hearing, be suspended or revoked by the Director, with the approval of the Administration, for violation of the terms or conditions thereof.

Section 3. Nothing in this Article shall be construed to limit or modify in any way whatsoever any procedure or remedy which may be available for the enforcement of the provisions of this Code.

ARTICLE VII

Unfair Methods of Competition

The following practices constitute unfair methods of competition and shall not be engaged in by any member of the industry:

Section 1. False advertising. To publish or disseminate in any manner any false advertisement of any alcoholic beverage. An advertisement shall be deemed to be false if it is untrue in any particular, or if directly or by ambiguity, omission, or inference it tends to create a misleading impression.

Section 2. Misbranding. To import, sell or otherwise introduce into commerce any alcoholic beverages that are misbranded. Alcoholic beverages shall be deemed to be misbranded -

(a) If they are misbranded within the meaning of the Food and Drug Act.

(b) Standards of fill. If their container is so made, formed or filled as to mislead the purchaser, or its contents fall below the standard of fill prescribed by regulations of the Administration.

(c) Standards of identity. If they purport to be or are represented as alcoholic beverages for which a definition of identity has been prescribed by regulations of the Administration and they fail to conform to the definition.

(d) Standards of quality. If they purport to be or are represented as alcoholic beverages for which standards of quality have been prescribed by regulations of the Administration, and (1) fail to state on the label, if so required by the regulations, their standard of quality in such terms as the regulations specify, or (2) fall below the standard stated on the label.

(e) Label requirements. If in package form and they fail to bear a label conforming to such requirements as the Administration may by regulation prescribe.

Section 3. Commercial Bribery. To give or permit to be given money or anything of substantial value in an effort to induce agents, employees or representatives of customers or prospective customers to influence their employers or principals to purchase or contract to purchase alcoholic beverages of a particular make or from a particular dealer therein or to influence such employers or principals to refrain from dealing or contracting to deal with competitors.

Section 4. Shipment or Delivery on Consignment. To make or enter into any agreement or contract the effect of which will amount to the shipment and/or delivery of alcoholic beverages on consignment, except pursuant to regulations of the Administration.

Section 5. Advertising Allowances and Rebates. To pay a trade buyer for a special advertising or distributing service, except pursuant to regulations of the Administration.

Section 6. Guarantee Against Decline. To make or give to any purchaser of alcoholic beverages any guarantee or allowance in any form against or as a result of decline in the market price thereof.

Section 7. Prizes and Premiums. To offer any prize, premium, gift, or other similar inducement to either a trade or a consumer buyer.

Section 8. Sales to Unauthorized Vendors. To sell or otherwise dispose of alcoholic beverages to any person not authorized by license, in full force and effect, to sell, manufacture or distribute alcoholic beverages if such a license is required of such person by State law; or to sell or otherwise dispose of alcoholic beverages to any member of an industry covered by any intoxicating beverages code under the Act, if such member is engaged in business without a permit in full force and effect under such code and such a permit is required by the code.

Section 9. Violations of State Law. To transport or import alcoholic beverages into any State or any political subdivision thereof, for delivery, sale or use therein in violation of the law of such State.

ARTICLE VIII

Prices and Terms of Sale

Section 1. Members of the industry shall, if required by the Administration, keep posted with the Administration and the Code Authority, in accordance with regulations prescribed by the Administration, a price list which shall set forth (a) all the products offered for sale by such member, (b) the sale price of such products to various classes of trade or consumer buyers, and (c) all other terms and conditions of sale of such product. No sale or other dispostion of alcoholic beverages shall be made by any member of the industry except in accordance with prices, terms, and conditions which have been posted and which have not been declared ineffective under Section 2 of this Article. Such posted price list may be made available to trade buyers in accordance with regulations prescribed by the Administration.

Section 2. If the Administration finds after investigation conducted by either the Administration or the Code Authority, that any posted price list contains, in whole or in part, prices or terms or conditions which constitute destructive price cutting or are so excessive

as to be oppressive to the consumer, the Administration is authorized after consultation with the Code Authority to declare such prices or terms or conditions ineffective.

Section 3. The payment by any member of the industry of allowances or rebates, refunds, concessions, or discounts, whether in the form of money or otherwise, not extended to all under the terms and conditions of sale as disclosed in the posted price list, is prohibited.

Section 4. The posting or publishing of any false or fictitious price list, or the use of invoices which falsely indicate prices, discounts, or terms or conditions of any sale, or the inserting in any invoice of statements which make the invoice a false record, wholly or in part, of the transaction represented on the face thereof, or the withholding from any invoice of statements which properly should be included therein, so that, in the absence of such statements, the invoice does not truly reflect the transaction involved, is prohibited.

ARTICLE IX

Reports

Section 1. The members of the industry shall severally, from time to time, upon the request of the Administration (or the National Recovery Administrator in case of information relating to hours of labor, rates of pay, or other conditions of employment) furnish such information, on and in accordance with forms of reports to be supplied, as may be deemed necessary for the purposes of (1) assisting in the furtherance of the powers and duties of the Administration or the National Recovery Administrator with respect to this Code and/or (2) enabling the Administration or the National Recovery Administrator to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Code will be effectuated, such reports to be verified under oath.

Section 2. The members of the industry shall severally permit, for the same purposes and/or to enable the Administration or the National Recovery Administrator to verify the information furnished on said forms of reports, all their books and records and the books and records of their affiliates and subsidiaries, to be examined by the Administration or the National Recovery Administrator during the usual hours of business.

Section 3. Each member of the industry shall severally keep books and records which will clearly reflect all financial transactions of his business and the financial condition thereof and such other matters relating to the business of the member as the Administration may by regulation prescribe, and shall require that their respective subsidiaries and affiliates keep such records.

Section 4. All information furnished the Administration pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration.

ARTICLE X

Administration

Section 1. The provisions of this Code (except those relating to hours of labor, rates of pay, and other conditions of employment) shall be administered with the cooperation of the Code Authority hereinafter provided for by a Federal Alcoholic Control Administration, established pursuant to the Code of Fair Competition for the Distilled Spirits Industry. The National Recovery Administrator shall administer the provisions of this Code relating to hours of labor, rates of pay, and other conditions of employment.

Section 2. The Administration shall prescribe such regulations as may be provided for in this Code or as may be reasonably necessary to carry out the provisions of this Code which it is authorized to administer, and may make such interpretations of such provisions and regulations as it deems necessary. Such regulations and interpretations shall have the same force and effect as the provisions of this Code.

Section 3. The Administration may utilize the services of the Bureau of Customs, The Agricultural Adjustment Administration, The Food and Drugs Administration, and other agencies of the Government in performing its functions under this Code. The President may allocate to any agency of the Government whose services are so utilized, such monies available for carrying out the purposes of Title I of the National Industrial Recovery Act as may be necessary.

Section 4. The Administration shall establish, under regulations prescribed by it, a Code Authority representative of the alcoholic beverages importing industry. Members of the Code Authority shall be selected by the members of the industry, subject to the approval of the Administration, and shall be subject to removal in the discretion of the Administration. The expenses of the Code Authority shall be borne by the members of the industry according to a plan to be submitted by the Code Authority and approved by the Administration. The Code Authority shall cooperate with the Administration and the National Recovery Administrator in carrying out this Code, and shall have the following powers and duties: (a) to act as an agency through which members of the industry may make recommendations to effectuate the declared policy of the Act; and (b) to serve as one of the agencies through which reports of apparent violations of this Code may be received and submitted to the Director of the National Recovery Administrator, whichever is appropriate. In addition, in order to take the fullest advantage of the cooperation of the members of the industry in aiding the Administration in promoting the observance of this Code, the Code Authority shall have such additional powers and duties as may be prescribed by regulations of the Administration, including the making from time to time of recommendations as to regulations under this Code. None of the foregoing powers of the Code Authority shall be deemed to limit the power of the Administration.

Regulations establishing the Code Authority and those prescribing its powers and duties shall be subject to modification by the Administration from time to time.

ARTICLE XI

Duration of Immunities

Section 1. The benefits, privileges and immunities conferred by this Code shall cease upon its termination except with respectto acts done prior thereto.

ARTICLE XII

Agents

Section 1. The Administration and the National Recovery Administrator may by designation in writing name any person, including any officer or employee of the Government, to act as agent in connection with their respective powers and duties under this Code.

ARTICLE XIII

Modification

Section 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of section 10 (b) of the Act, from time to time, to cancel or modify any order, approval, license, rule or regulation issued under the Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

ARTICLE XIV

Application of Code to other Industries

Section 1. If any member of the industry is also engaged in any other industry or trade, the provisions of this Code shall apply to and affect only that part of the business of such member of the industry which is included in the Alcoholic Beverages Importing Industry.

ARTICLE XV

Effective Date

Section 1. This Code shall be effective the day following its approval by the President of the United States.

UNITED STATES DEPARTMENT OF AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

SUBSTITUTE FOR THE

PROPOSED

MARKETING AGREEMENT FOR

THE ALCOHOLIC BEVERAGES IMPORTING INDUSTRY,

AS SET FOR HEARING ON

NOVEMBER 29, 1933

This document has been filed with the Chief Hearing Clerk, Agricultural Adjustment Administration, as a tentative substitute for the proposed Marketing Agreement for the Alcoholic Beverages Importing Industry which have been set for hearing on Wednesday, November 29, 1933. The substitute will be offered for the record on behalf of the President's Special Committee on the Control of Alcohol and Alcoholic Beverages, at the hearing upon the proposed Marketing Agreement. The substitute is presented as a basis for developing evidence at the hearing with respect to the policies incorporated. The substitute is not to be regarded as an expression of the final views of the Special Committee.

MARKETING AGREEMENT FOR THE

ALCOHOLIC BEVERAGES IMPORTING INDUSTRY

ARTICLE I

Purposes

The parties to this agreement are the contracting importers and the Secretary of Agriculture of the United States.

WHEREAS, it is the declared policy of Congress as set forth in Section 2 of the Agricultural Adjustment Act, approved May 12, 1933, as amended -

(a) To establish and maintain such balance between the production and consumption of agricultural commodities and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of agricultural commodities in the base period, the base period in the case of all agricultural commodities except tobacco being the pre-war period, August 1909-July 1914, and in the case of tobacco, the base period being the post-war period, August 1919-July 1921;

(b) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets; and

(c) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer above the percentage which was returned to the farmer in the pre-war period, August 1909-July 1914:-

And -

Whereas, pursuant to the Agricultural Adjustment Act, the parties hereto, for the purpose of establishing and maintaining such conditions in the importing of intoxicating liquors as will aid in maintaining a balance between the consumption and production of domestic agricultural

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE II

Definitions

Section 1. As used in this Agreement, -

(a) The term "Secretary" means the Secretary of Agriculture of the United States.

(b) The term "Act" means the Agricultural Adjustment Act, approved May 12, 1933, as amended.

(c) The term "person" means individual, partnership, corporation, association and any other business unit.

(d) The term "alcoholic beverages" means "alcohol" or alcoholic beverages", except beer, ale, porter, stout, or other fermented malt liquors or cereal beverages.

(e) The term "contracting importers or importer" means any person, a party signatory to this Agreement according to the terms thereof, who is engaged in the importing into the United States of alcoholic beverages for sale or any other commercial purpose.

(f) The term "United States" includes the United States and its possessions, except the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone and the Island of Guam.

(g) The term "foreign countries" means all countries other than the United States, and includes the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the Island of Guam.

(h) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, correspondence or other written data pertaining to the business of the person in question.

(i) The term "subsidiary" means any person, of or over whom, the contracting distributor or contracting producer has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(j) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a contracting distributor or contracting producer, whether by stock ownership or in any other manner.

(k) The term "Administration" means the Federal Alcoholic Beverages Administration established pursuant to the provisions of the Code of Fair Competition for the Distilled Spirits Industry.

(l) The term "Code Authority" means the authority established pursuant to Article V of the Code of Fair Competition for the Alcoholic Beverages Importing Industry.

ARTICLE III

CONDITIONS OF IMPORTATION

Section 1. Each contracting importer agrees not to import or bring into the United States any alcoholic beverage (except in customs bond for trans-shipment to a foreign country) otherwise than in accordance with a permit issued pursuant to this Article.

Section 2. The Administration is hereby vested with authority to issue such permits; except that prior to February 1, 1934, such permits are hereby authorized to be issued by a permit committee composed of one representative of the Treasury Department and one representative of the Department of Agriculture to be designated by the respective Secretaries thereof.

Section 3. Each permit issued shall specify (a) the kinds and amounts of alcoholic beverage to be imported thereunder, (b) the country from which such beverage may be brought, (c) the period during which importation may be made thereunder, and (d) such other terms and conditions as the issuing authority deems necessary. Permits shall be issued only upon application by the importer to the issuing authority, in accordance with such regulations as the issuing authority may prescribe. The action of the issuing authority with respect to any such application shall be final and conclusive.

Section 4. From time to time the Secretary of Agriculture and the Secretary of the Treasury shall jointly determine and report to the issuing authority the kinds and amounts of alcoholic beverages permitted to be imported into the United States from each foreign country. The issuing authority in carrying out its functions under this Article shall act in conformity with such reports. The minimum amount of any kind of alcoholic beverages that may be imported into the United States from any foreign country during any period, shall not be less than the average amount for a like period imported between July 1, 1910, to June 30, 1914; provided that with respect to any foreign country as to which no such minimum exists or for which the minimum is inconsiderable in amount, there shall be determined a minimum amount that is equitable in view of prevailing conditions.

ARTICLE IV.

Reports

Section 1. The contracting importers shall severally, from time to time, upon the request of the Administration furnish such information, on and in accordance with forms of reports to be supplied, as may be necessary for the purposes of (1) assisting the Administration in the furtherance of its powers and duties with respect to this Agreement, and/or (2) enabling the Administration to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Agreement will be effectuated, such reports to be verified under oath.

Sec. 2. The contracting importers also severally agree that, for the same purposes, and/or to enable the Administration to verify the information furnished on said forms of reports, all their books and records, and the books and records of their affiliates and subsidiaries, shall during the usual hours of business be subject to the examination of the Administration.

Sect. 3. Contracting importers shall severally keep books and records which will clearly reflect all financial transactions of their respective businesses and the financial condition thereof, and shall require their respective affiliates to keep such books and records.

Sec. 4. All information furnished the Administration pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration.

ARTICLE V.

Administration

Section 1. Provisions of this Code shall be administered by the Federal Alcohol Control Administration established pursuant to the Code of Fair Competition for the Distilled Spirits Industry.

Sec. 2. The Administration shall prescribe such regulations as may be reasonably necessary to carry out the provisions of this Agreement, and may make such interpretations of such provisions and regulations as the Administration deems necessary. Such regulations and interpretations shall have the same force and effect as the provisions of this Agreement.

Sec. 3. The Administration may utilize the services of the Bureau of Customs and other agencies of the Government in administering its functions under this Agreement. The Secretary of Agriculture may transfer to the Administration or any such agency, out of funds available for administrative expenses under the Agricultural Adjustment Act, such monies as may be necessary to pay administrative expenses incurred by the Administration or such agencies in carrying out the provisions of this Agreement.

Sec. 4. The contracting importers agree, through the agency of the Code Authority established pursuant to the Code of Fair Competition for the Alcoholic Beverages Importing Industry, to cooperate with the Administration in carrying out this Agreement; and to this end the Code Authority shall have the following powers and duties; (a) to act as an agency through which the contracting importers may make recommendations to effectuate the declared policy of the Act, including recommendations as to allocation of import quotas to particular importers; and (b) serve as one of the agencies through which reports of apparent violations of this Agreement may be received and reported to the Administration; in addition, the Code Authority shall have such powers and duties with respect to this Agreement as may be prescribed by regulations of the Administration. None of the foregoing powers of the Code Authority shall be deemed to limit the powers of the Administration.

Sec. 5. The Administration shall report to the Attorney General and the Secretary for appropriate action by them the facts found by the Administration with respect to any violation of this Agreement.

ARTICLE VI.

Licensing

Sec. 1. The contracting importers hereby apply for and consent to licensing by the Secretary, subject to the applicable General Regulations, Agricultural Adjustment Administration.

ARTICLE VII.

Effective Time

Sec. 1. This Agreement shall become effective at such time as the Secretary may declare above his signature attached hereto, and this Agreement shall continue in force until terminated as follows:

(a) The Secretary may at any time terminate this Agreement as to all parties thereto by giving at least one day's notice by means of a press release or in any other manner which the Secretary may determine.

(b) The Secretary may at any time terminate this Agreement as to any party signatory thereto, by giving at least one day's notice, by depositing the same in the mail and addressed to such party at his last known address.

(c) The Secretary shall terminate this Agreement upon the request of 75 percent of the contracting importers, such percentage to be measured by the volume of imports, by giving notice in the same manner as provided in paragraph (a) above.

(d) This Agreement shall in any event terminate whenever the provisions of the Act authorizing it cease to be in effect.

ARTICLE VIII.

Immunities

Section 1. The benefits, privileges, and immunities conferred by virtue of this Agreement shall cease upon its termination, except with respect to acts done prior thereto; and the benefits, privileges and immunities conferred by this Agreement upon any party signatory hereto shall cease upon its termination as to such party except with respect to acts done prior thereto.

Section 2. This Agreement shall not be held to relieve any contracting importer from compliance with any law relating to intoxicating beverages or any applicable marketing agreement, license, or code of fair competition pursuant to Act of Congress.

ARTICLE IX.

Counterparts

Section 1. This Agreement may be executed in multiple counterparts, which when signed by the Secretary shall constitute, when taken together, one and the same instrument as if all such signatures were contained in one original.

ARTICLE X.

Additional Parties

Section 1. After this Agreement first takes effect any person not a party thereto who is engaged in the importation of intoxicating liquors, may become a party to this Agreement, if a counterpart thereof is executed by him and by the Secretary. This Agreement shall take effect as to such new contracting party at such time as the Secretary may declare above his signature attached to such counterpart, and the benefits, privileges, and immunities conferred by this Agreement shall then be effective as to such new contracting party.

ARTICLE XI.

Agents

Section 1. The Secretary or the Administration may by designation in writing, name any person, including any officer or employee of the Government, to act as his or their agent in connection with carrying out their respective functions under any of the provisions of this Agreement.

ARTICLE XII.

Signatures of Parties

In witness whereof the contracting parties, acting under the provisions of the Agricultural Adjustment Act, for the purposes and subject to the limitations herein contained, and not otherwise, have hereunto set their respective hands and seals.

_____

_____

_____

Whereas, it is provided by Section 8 of the Act as follows:

> In order to effectuate the declared policy, the Secretary of Agriculture shall have power to enter into marketing agreements with processors, associations of producers, and others engaged in the handling in the current of interstate and foreign commerce of any agricultural commodity or product thereof, after due notice and opportunity for hearing to interested parties. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States and any such agreement shall be deemed to be lawful: Provided, that no such agreement shall remain in force after the termination of this Act;

And--

Whereas, due notice and opportunity for hearing to interested parties has been given pursuant to the provisions of the Act, and the regulations issued thereunder: and

Whereas, the Secretary finds that the contracting importers are engaged in the handling of intoxicating liquors in the current of foreign commerce; and

Whereas, it appears, after due consideration, that this agreement will tend to effectuate the policy of Congress declared in Section 2 of the Act, as hereinbefore in this Agreement set forth:

Now therefore, I, Henry A. Wallace, Secretary of Agriculture, acting under the provisions of the Agricultural Adjustment Act, for the purpose and within the limitations therein contained, and not otherwise, do hereby execute this Agreement under my hand and official seal of the Department of Agriculture, in the city of Washington, D. C. on this _____ day of _____, and pursuant to the provisions hereof declare this Agreement to be effective on and after _____ eastern standard time, _____.

(SEAL)

_____
Secretary of Agriculture

B46A

UNITED STATES DEPARTMENT OF AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

CODE OF FAIR COMPETITION FOR THE ALCOHOLIC BEVERAGES IMPORTING INDUSTRY

CODE OF FAIR COMPETITION FOR THE ALCOHOLIC BEVERAGES IMPORTING INDUSTRY

ARTICLE I

Purposes.

WHEREAS, it is the declared policy of Congress as set forth in Section I of Title I of the National Industrial Recovery Act:

> To remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, to induce and maintain united action of labor and management under adequate governmental sanctions and supervision to eliminate unfair competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor and otherwise to rehabilitate industry and to conserve natural resources,

And --

WHEREAS, Congress has not had opportunity to legislate on liquor control following the repeal of the Eighteenth Amendment, and

WHEREAS, the twenty-first Amendment provides in part as follows:

> The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws, thereof, is hereby prohibited.

And --

WHEREAS, it is in the best interests of the public that all industries engaged in the importation and distribution of alcoholic beverages shall limit their activities to their reasonable and immediate requirements until such time as Congress may consider appropriate legislation relating to such industries.

NOW, THEREFORE, to effectuate the foregoing policies the following provisions are established as a Code of Fair Competition for the Alcoholic Beverages Importing Industry and upon approval by the President shall be the standards of fair competition for such industry and shall be binding upon every member of such industry in the United States, and neither the promulgation of this Code nor any action taken thereunder by the Federal Alcohol Control Administration or by any member of the industry shall be construed as giving any such member a vested right to continue to participate in the importation and distribution of alcoholic beverages in the United States.

ARTICLE II

Definitions.

Section 1. As used in this Code: -

(a) The term "President" means the President of the United States.

(b) The term "Act" means Title I of the National Industrial Recovery Act, approved June 16, 1933.

(c) The term "person" means individual, partnership, corporation, association, and any other business unit.

(d) The terms "alcoholic beverages importing industry" and "industry" mean (a) the importing or bringing of alcoholic beverages into the United States (except in customs bond for trans-shipment to a foreign country) for sale or any other commercial purpose, or (b) the bottling, warehousing or other handling or distribution of alcoholic beverages so imported or brought in, or the sale or other disposition thereof, except at retail, by an importer or an affiliate or subsidiary thereof.

(e) The term "alcoholic beverages" means alcohol or alcoholic beverages containing more than one-half one per centum of alcohol by volume.

(f) The term "employee" means any person engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

(g) The term "employer" means any person by whom any such employee is compensated or employed.

(h) The term "watchmen" includes only employees whose principal function is watching and guarding the premises and property of the establishment.

(i) The term "outside salesmen" shall mean any salesmen who perform exclusively selling functions and do not deliver.

(j) The term "trade buyer" means any buyer as distinguished from ultimate consumer buyer.

(k) The term "member of the industry" means any person engaged in the industry as an employer or on his own behalf.

(l) The term "Administration" means the Federal Alcohol Control Administration.

(m) The term "Director" means the Director of the Federal Alcohol Control Administration.

(n) The term "Code Authority" means the authority established pursuant to Article VIII of this Code.

(o) The term "State" includes Territory and District of Columbia.

(p) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence or other written data pertaining to the business of the person in question.

(q) The term "subsidiary" means any person, of or over whom, a member of the industry has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(r) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a member of the industry, whether by stock ownership or in any other manner, or a subsidiary thereof.

ARTICLE III

Mandatory Labor Provisions.

Section 1. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or other mutual aid or protection.

Section 2. No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

Section 3. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

ARTICLE IV

Permits

Section 1. No person shall engage in business as a member of the alcoholic beverages importing industry except pursuant to a permit issued by the Director. Such permit shall be conditioned on the observance by the permittee of the provisions of this Code (other than Article III).

and regulations issued thereunder. Such permit shall not be taken or held to create in any permittee any vested right as to any standard of profits or volume of business or any right to engage in the importation or distribution of any class of alcoholic beverages after the termination of the permit.

Section 2. Any such permit may, after due notice and opportunity for hearing, be suspended or revoked by the Director, with the approval of the Administration, for violation of the terms or conditions thereof.

Section 3. Nothing in this Article shall be construed to limit or modify in any way whatsoever any procedure or remedy which may be available for the enforcement of the provisions of this Code.

ARTICLE V

Unfair Methods of Competition

The following practices constitute unfair methods of competition and shall not be engaged in by any member of the industry:

Section 1. False Advertising. To publish or disseminate in any manner any false advertisement of any alcoholic beverages. An advertisement shall be deemed to be false if it is untrue in any particular, or if directly or by ambiguity, omission, or inference it tends to create a misleading impression.

Section 2. Misbranding. To import, sell or otherwise introduce into commerce any alcoholic beverages that are misbranded. Alcoholic beverages shall be deemed to be misbranded -

(a) If they are misbranded within the meaning of the Food and Drugs Act.

(b) Standards of fill. If their container is so made, formed or filled as to mislead the purchaser, or its contents fall below the standard of fill prescribed by regulations of the Administration.

(c) Standards of identity. If they purport to be or are represented as alcoholic beverages for which a definition of identity has been prescribed by regulations of the Administration and they fail to conform to the definition.

(d) Standards of quality. If they purport to be or are represented as alcoholic beverages for which standards of quality have been prescribed by regulations of the Administration, and (1) fail to state on the label, if so required by the regulations, their standard of quality in such terms as the regulations specify, or (2) fall below the standard stated on the label.

(e) Label requirements. If in package form and they fail to bear a label conforming to such requirements as the Administration may by regulations prescribe.

Regulations for the purpose of this sub-section shall be prescribed by the Administration, but only after due notice and opportunity for hearing to members of the industry.

Section 3. Commercial Bribery. To give or permit to be given money or anything of substantial value for the purpose of influencing persons (a) to purchase or sell alcoholic beverages of a particular brand or from a particular person, or (b) to refrain from purchasing of or dealing with particular persons.

Section 4. Shipment or Delivery on Consignment. To enter into any agreement for the shipment or delivery of alcoholic beverages on consignment, except pursuant to regulations of the Administration.

Section 5. Allowances and Rebates for Advertising and Distribution Services. To pay a trade buyer for a special advertising or distributing service (a) unless in pursuance of a written contract defining the service to be rendered and the payment therefor; and (b) unless such service is rendered and the payment is reasonable and not excessive in amount; and (c) unless such contract is separate and distinct from any sales contract and is not designed or issued to reduce a sales price; and (d) unless a copy of each such contract is filed with the Code Authority. This Section shall not apply to any contract made prior to the effective date of this Code.

Section 6. Prizes and Premiums. To offer any prize, premium, gift, or other similar inducement to either a trade or a consumer buyer.

Section 7. Sales to Unauthorized Vendors. To sell or otherwise dispose of alcoholic beverages to any person not authorized by license, in full force and effect, to sell, manufacture or distribute alcoholic beverages if such a license is required of such person by State law; or to sell or otherwise dispose of alcoholic beverages to any member of an industry covered by any code under the Act pertaining to alcohol or alcoholic beverages, if such member is engaged in business without a permit in full force and effect under such code and such a permit is required by the code.

Section 8. Violations of State Law. To transport or import alcoholic beverages into any State or political subdivision thereof, for delivery, sale or use therein in violation of the law of such State.

ARTICLE VI

Bottling.

Section 1. Members of the industry shall sell or dispose of distilled spirits in bottles only, except in case of sales to rectifiers or blenders, or to dispensaries or other agencies operated and maintained by any State or political subdivision thereof, or for export, or for shipments in bond. Nothing in this section shall restrict the sale or other disposition of warehouse receipts covering distilled spirits in bond, provided such receipts require the bottling of the distilled spirits prior to removal from the warehouse.

ARTICLE VII

Prices and Terms of Sale

Section 1. Each member of the industry shall keep posted with the Code Authority, in accordance with regulations prescribed by it and approved by the Administration, and upon request shall make available to trade and consumer buyers, a price list which shall set forth (a) all the classes, types, and brands of alcoholic beverages offered for sale by such member, (b) the sale prices thereof to various classes of trade buyers and (c) all discounts and other terms of sale of such alcoholic beverages.

Section 2. The Code Authority shall file with the Administration a copy of each price list so posted. The Code Authority shall, upon request, make available such price lists to trade and consumer buyers.

Section 3. No sale or other disposition of alcoholic beverages shall be made by any member of the industry, except in accordance with its prices and terms so posted and in effect.

Section 4. No member of the industry shall post or keep posted any price or term which will (a) constitute destructive price cutting, or (b) be oppressive to the consumer. A posted price or term shall not be held to be in violation of this Section unless it is kept posted after it has been declared ineffective by the Code Authority or the Administration, as hereafter in this Article provided.

Section 5. If, after investigation, the Code Authority finds that the prices or terms for any grade, class, type or brand of alcoholic beverages posted under this Article is not in conformity with the requirements of Section 4, it shall, with the approval of the Administration, declare such prices or terms ineffective.

Section 6. If the Administration is of the opinion that the prices or terms posted for any grade, class, type or brand of alcoholic beverages are contrary to the requirements of Section 4, it may report such fact to the Code Authority. If the Code Authority does not within ten days take action acceptable to the Administration, the Administration may then declare such prices or terms ineffective, if it finds that they are not in conformity with the requirements of Section 4.

Section 7. The payment by any member of the industry of allowances or rebates, refunds, concessions, or discounts, whether in the form of money or otherwise, not extended to all under the terms and conditions of sale as disclosed in the posted price list, is prohibited.

Section 8. The posting or publishing of any false or fictitious price list, or the use of invoices which falsely indicate prices, discounts or terms or conditions of any sale, or the inserting in any invoice of statements which make the invoice a false record, wholly or in part, of the transaction represented on the face thereof, or the withholding from any invoice of statements which properly should be included therein, so that, in the absence of such statements, the invoice does not truly reflect the transaction involved, is prohibited.

ARTICLE VIII

Reports

Section 1. The members of the industry shall severally, from time to time, upon the request of the Administration (or the National Recovery Administrator in case of information relating to hours of labor, rates of pay, or other conditions of employment) furnish such information, on and in accordance with forms of reports to be supplied, as may be deemed necessary for the purposes of (1) assisting in the furtherance of the

powers and duties of the Administration or the National Recovery Administrator with respect to this Code and/or (2) enabling the Administration or the National Recovery Administrator to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Code will be effectuated, such reports to be verified under oath.

Section 2. The members of the industry shall severally permit, for the same purposes and/or to enable the Administration or the National Recovery Administrator to verify the information furnished on said forms of reports, all their books and records and the books and records of their affiliates and subsidiaries, to be examined by the Administration or the National Recovery Administrator during the usual hours of business.

Section 3. Each member of the industry shall severally keep books and records which will clearly reflect all financial transactions of his business and the financial condition thereof and such other matters relating to the business of the member as the Administration may be regulation prescribe, and shall require that their respective subsidiaries and affiliates keep such records.

Section 4. All information furnished the Administration pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration.

ARTICLE IX.

Code Authority

Section 1. There shall be a Code Authority selected by the members of the industry, pursuant to a plan submitted by the members of the industry and approved by the Administration. The members of the Code Authority shall be subject to the approval of the Administration and shall be subject to removal in the discretion of the Administration. The powers and duties of the Code Authority shall be as follows:

(a) To administer the provisions of this Code (except as otherwise provided) subject to the approval of the Administration; and to foster and promote the observance of this Code by the members of the industry.

(b) To prescribe rules for the performance of its functions subject to the approval of the Administration.

(c) To recommend to the Administration amendments to this Code.

(d) To cooperate with and assist the Administration, as the Administration may from time to time request, in carrying out its functions under this Code.

(e) To make reports to the Administration from time to time on problems relating to the industry affecting the Administration of this Code.

(f) To receive and investigate charges of apparent violations of this Code and to report to the Administration its findings of fact on such charges. This paragraph shall not be construed to derogate from or limit the powers of the Administration to investigate apparent violations and to take such action in the premises as it deems desirable.

Section 2. If the members of the industry fail to submit a plan under Section 1 of this Article, within five days after the effective date of this Code, or if the plan submitted is not approved by the Administration, then the Administration may establish and provide for the selection of the members of the Code Authority, according to a plan prescribed by the Administration.

ARTICLE X

Federal Alcohol Control Administration.

Section 1. The Federal Alcohol Control Administration shall prescribe such regulations as may be provided for in this Code or as may be reasonably necessary to carry out the provisions of this Code which it is authorized to administer, and may make such interpretations of such provisions and regulations as it deems necessary, such regulations and interpretations shall have the same force and effect as the provisions of this Code.

Section 2. If the Administration is of the opinion that the Code Authority has failed to take any action which the Administration deems necessary to administer the provisions of this Code, the Administration may so report to the Code Authority. If the Code Authority does not, within such time as the Administration deems proper, take action relating to such report satisfactory to the Administration, the Administration shall take such action as it may deem necessary to administer such provisions.

Section 3. The Administration may investigate any apparent violation of the provisions of this Code and may take such action in the premises as it deems desirable.

ARTICLE XI

Duration of Immunities

Section 1. The benefits, privileges and immunities conferred by this Code shall cease upon its termination except with respect to acts done prior thereto.

ARTICLE XII

Agents

Section 1. The Administration and the National Recovery Administrator may by designation in writing name any person, including any officer or employee of the Government, to act as agent in connection with their respective powers and duties under this Code.

ARTICLE XIII

Modification

Section 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of section 10 (b) of the Act, from time to time, to cancel or modify any order, approval, license, rule or regulation issued under the Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

ARTICLE XIV

Application of Code to other Industries

Section 1. If any member of the industry is also engaged in any other industry or trade, the provisions of this Code shall apply to and affect only that part of the business of such member of the industry which is included in the Alcoholic Beverages Importing Industry.

ARTICLE XV

Effective Date

Section 1. This Code shall be effective the day following its approval by the President of the United States.

MARKETING AGREEMENT FOR THE ALCOHOLIC BEVERAGES IMPORTING INDUSTRY

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U. S. Department of Agriculture

ARTICLE I

PURPOSES

The parties to this agreement are the contracting importers and the Secretary of Agriculture of the United States.

WHEREAS, it is the declared policy of Congress as set forth in Section 2 of the Agricultural Adjustment Act, approved May 12, 1933, as amended--

(a) To establish and maintain such balance between the production and consumption of agricultural commodities and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of agricultural commodities in the base period, the base period in the case of all agricultural commodities except tobacco being the pre-war period. August 1909-July 1914, and in the case of tobacco, the base period being the post-war period, August 1919-July 1921;

(b) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets; and

(c) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer above the percentage which was returned to the farmer in the pre-war period, August 1909-July 1914--

And--

WHEREAS, pursuant to the Agricultural Adjustment Act, the parties hereto, for the purpose of establishing and maintaining such conditions in the importing of intoxicating liquors as will aid in maintaining a balance between the consumption and production of domestic agricultural commodities ordinarily used in the manufacture of intoxicating liquors, of removing agricultural surpluses, and of otherwise effectuating the declared policy of the Act, desire to enter into a marketing agreement under the provisions of Section 8 (2) of the Act;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE II

DEFINITIONS

SECTION 1. As used in this Agreement--

(a) The term "Secretary" means the Secretary of Agriculture of the United States.

(b) The term "Act" means the Agricultural Adjustment Act, approved May 12, 1933, as amended.

(c) The term "person" means individual, partnership, corporation, association and any other business unit.

(d) The term "alcoholic beverages" means alcohol or alcoholic beverages, except beer, ale, porter, stout, or other fermented malt liquors or cereal beverages.

(e) The term "contracting importers" means any person, a party signatory to this Agreement according to the terms thereof, who is engaged in the importing into the United States of alcoholic beverages for sale or any other commercial purpose.

(f) The term "United States" includes the United States and its possessions, except the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone and the Island of Guam.

(g) The term "foreign countries" means all countries other than the United States, and includes the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the Island of Guam.

(h) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, correspondence or other written data pertaining to the business of the person in question.

(i) The term "subsidiary" means any person, of or over whom, the contracting distributor or contracting producer has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(j) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a contracting distributor or contracting producer, whether by stock ownership or in any other manner.

(k) The term "Administration" means the Federal Alcohol Control Administration.

(l) The term "Code Authority" means the industry authority established pursuant to Article V of the Code of Fair Competition for the Alcoholic Beverages Importing Industry.

ARTICLE III

CONDITIONS OF IMPORTATION

SECTION 1. Each contracting importer agrees not to import or bring into the territorial limits of the United States any alcoholic beverage (except in customs bond for trans-shipment to a foreign country) otherwise than in accordance with a permit issued pursuant to this Article.

SECTION 2. From time to time the Secretary of Agriculture and the Secretary of the Treasury shall jointly determine and report to the issuing authority the kinds and amounts of alcoholic beverages permitted to be imported into the United States from each foreign country. The minimum amount of any kind of alcoholic beverages that may be imported into the United States from any foreign country during any period, shall not be less than the average

amount for a like period imported between July 1, 1910, to June 30, 1914; provided that with respect to any foreign country as to which no such minimum exists or for which the minimum is inconsiderable in amount, there shall be determined a minimum amount that is equitable in view of prevailing conditions.

SECTION 3. The Administration is hereby vested with authority to issue such permits; except that for the first permit period, such permits shall be issued by a permit committee composed of one representative of the Treasury Department and one representative of the Department of Agriculture to be designated by the respective Secretaries thereof. Such permits shall be issued to importers on the basis of the reasonable and legitimate trade needs of the applicant, and upon the financial and commercial ability of the applicant to carry on this business, which the applicant shall satisfactorily demonstrate to the issuing authority. The total of such permits for each kind of alcoholic beverage to be imported from each foreign country as far as practicable, shall not exceed the quota determined pursuant to Section 2 of this Article.

SECTION 4. Each permit issued shall specify (a) the kinds and amounts of the alcoholic beverage to be imported thereunder, (b) the country from which such beverage may be brought, (c) the period during which importation may be made thereunder, and (d) such other terms and conditions as the issuing authority deems necessary. Permits shall be issued only upon application by the importer to the issuing authority, in accordance with such regulations as the issuing authority may prescribe. The action of the issuing authority with respect to any such application shall be final and conclusive.

ARTICLE IV

REPORTS

SECTION 1. The contracting importers shall severally, from time to time, upon the request of the Administration furnish such information, on and in accordance with forms of reports to be supplied, as may be necessary for the purposes of (1) assisting the Administration in the furtherance of its powers and duties with respect to this Agreement, or (2) enabling the Administration to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Agreement will be effectuated, such reports to be verified under oath.

SECTION 2. The contracting importers also severally agree that, for the same purposes, or to enable the Administration to verify the information furnished on said forms of reports, all their books and records, and the books and records of their affiliates and subsidiaries, shall during the usual hours of business be subject to the examination of the Administration.

SECTION 3. Contracting importers shall severally keep books and records which will clearly reflect all financial transactions of their respective businesses and the financial condition thereof, and shall require their respective affiliates and subsidiaries to keep such books and records.

SECTION 4. All information furnished the Administration pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration.

ARTICLE V

ADMINISTRATION

SECTION 1. The provisions of this Agreement shall be administered by the Federal Alcohol Control Administration except as otherwise provided by law or by the provisions hereof.

SECTION 2. The Administration shall prescribe such regulations as may be reasonably necessary to carry out the provisions of this Agreement, and may make such interpretations of such provisions and regulations as the Administration deems necessary. Such regulations and interpretations shall have the same force and effect as the provisions of this Agreement.

SECTION 3. The contracting importers agree, through the agency of the Code Authority established pursuant to the Code of Fair Competition for the Alcoholic Beverages Importing Industry, to cooperate with the Administration in carrying out this Agreement; and to this end the Code Authority shall have the following powers and duties: (a) To act as an agency through which the contracting importers may make recommendations to effectuate the declared policy of the Act, including recommendations as to allocation of import quotas to particular importers; and (b) to serve as one of the agencies through which reports of apparent violations of this Agreement may be received and reported to the Administration. In addition, the Code Authority shall have such powers and duties with respect to this Agreement as may be prescribed by regulations of the Administration. None of the foregoing powers of the Code Authority shall be deemed to limit the powers of the Administration.

SECTION 4. The Administration shall report to the Attorney General and the Secretary for appropriate action by them the facts found by the Administration with respect to any violation of this Agreement.

ARTICLE VI

LICENSING

SECTION 1. The contracting importers hereby apply for and consent to licensing by the Secretary, subject to the applicable General Regulations, Agricultural Adjustment Administration.

ARTICLE VII

EFFECTIVE TIME

SECTION 1. This Agreement shall become effective at such time as the Secretary may declare above his signature attached hereto, and this Agreement shall continue in force until terminated as follows:

(a) The Secretary may at any time terminate this Agreement as to all parties thereto by giving at least one day's notice by means of a press release or in any other manner which the Secretary may determine.

(b) The Secretary may at any time terminate this Agreement as to any party signatory thereto, by giving at least one day's notice, by depositing

the same in the mail addressed to such party, at his last known address.

(c) The Secretary shall terminate this Agreement upon the request of 75 percent of the contracting importers, such percentage to be measured by the volume of imports, by giving notice in the same manner as provided in paragraph (a) above.

(d) This Agreement shall in any event terminate whenever the provisions of the Act authorizing it cease to be in effect.

ARTICLE VIII

IMMUNITIES

SECTION 1. The benefits, privileges, and immunities conferred by virtue of this Agreement shall cease upon its termination, except with respect to acts done prior thereto; and the benefits, privileges and immunities conferred by this Agreement upon any party signatory hereto shall cease upon its termination as to such party except with respect to acts done prior thereto.

SECTION 2. This Agreement shall not be held to relieve any contracting importer from compliance with any law relating to intoxicating beverages or any applicable marketing agreement, license, or code of fair competition pursuant to Act of Congress.

ARTICLE IX

COUNTERPARTS

SECTION 1. This Agreement may be executed in multiple counterparts, which when signed by the Secretary shall constitute, when taken together, one and the same instrument as if all such signatures were contained in one original.

ARTICLE X

ADDITIONAL PARTIES

SECTION 1. After this Agreement first takes effect any person not a party thereto who is engaged in the importation of alcoholic beverages, may become a party to this Agreement, if a counterpart thereof is executed by him and by the Secretary. This Agreement shall take effect as to such new contracting party at such time as the Secretary may declare above his signature attached to such counterpart, and the benefits, privileges, and immunities conferred by this Agreement shall then be effective as to such new contracting party.

ARTICLE XI

AGENTS

SECTION 1. The Secretary or the Administration may by designation in writing, name any person, including any officer or employee of the Government, to act as his or their agent in connection with carrying out their respective functions under any of the provisions of this Agreement.

ARTICLE XII

SIGNATURES OF PARTIES

In witness whereof the contracting parties, acting under the provisions of the Agricultural Adjustment Act, for the purposes and subject to the limitations herein contained, and not otherwise, have hereunto set their respective hands and seals.

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WHEREAS, it is provided by Section 8 of the Act as follows:

In order to effectuate the declared policy, the Secretary of Agriculture shall have power to enter into marketing agreements with processors, associations of producers, and others engaged in the handling in the current of interstate and foreign commerce of any agricultural commodity or product thereof, after due notice and opportunity for hearing to interested parties. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States and any such agreement shall be deemed to be lawful: Provided, that no such agreement shall remain in force after the termination of this Act;

And--

WHEREAS, due notice and opportunity for hearing to interested parties has been given pursuant to the provisions of the Act, and the regulations issued thereunder; and

WHEREAS, the Secretary finds that the contracting importers are engaged in the handling of alcoholic beverages in the current of foreign commerce; and

WHEREAS, it appears, after due consideration, that this agreement will tend to effectuate the policy of Congress declared in Section 2 of the Act, as hereinbefore in this Agreement set forth:

NOW, THEREFORE, I, Henry A. Wallace, Secretary of Agriculture, acting under the provisions of the Agricultural Adjustment Act, for the purpose and within the limitations therein contained, and not otherwise, do hereby execute this Agreement under my hand and official seal of the Department of Agriculture, in the City of Washington, D.C., on this _____ day of _____, and pursuant to the provisions hereof declare this Agreement to be effective on and after _____ eastern standard time, _____.

Henry A Wallace

Secretary of Agriculture.

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B46A

(As approved by President of the U.S.
Dec. 9, 1933)

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CODE OF FAIR COMPETITION FOR THE ALCOHOLIC BEVERAGE WHOLESALE INDUSTRY

(Exclusive of Provisions relating to Hours of Labor, Rates of Pay, and other conditions of employment)

ARTICLE I

Purposes.

WHEREAS, it is the declared policy of Congress as set forth in Section 1 of Title 1 of the National Industrial Recovery Act:

> To remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, to induce and maintain united action of labor and management under adequate governmental sanctions and supervision, to eliminate unfair competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources.

And --

WHEREAS, Congress has not had opportunity to legislate on liquor control following the repeal of the Eighteenth Amendment, and

WHEREAS, the Twenty-first Amendment provides in part as follows:

> The transportation or importation into any State, Territory or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

And-

WHEREAS, it is in the best interests of the public that all industries engaged in the production or distribution of alcoholic beverages shall limit their activities to their reasonable and immediate requirements until such time as Congress may consider appropriate legislation relating to such industries, --

NOW THEREFORE, to effectuate the foregoing policies, the following provisions are prescribed and approved by the President as a Code of Fair Competition for the alcoholic beverage wholesale industry, and shall be the standards of fair competition for such industry and be binding upon every member of such industry in the United States; and neither the promulgation of this Code nor any action taken thereunder by the Federal Alcohol Control Administration, the Code Authority, or by any member of the alcoholic beverage wholesale industry shall be construed as giving any member of such industry a vested right to continue to participate in the distribution of alcoholic beverages in the United States.

ARTICLE II

Definitions

Section 1. As used in this Code --

(a) The term "President" means the President of the United States.

(b) The term "Act" means Title 1 of the National Industrial Recovery Act, approved June 16, 1933.

(c) The term "person" means individual, partnership, corporation, association, and any other business unit.

(d) The terms "alcoholic beverage wholesale industry" and "industry" mean the purchase and sale of any alcoholic beverage; except (1) purchase and sale at retail or for export, or (2) sale by distillers of beverages distilled by them; by rectifiers of beverages rectified by them; by brewers of beverages brewed by them, and by importers of beverages imported by them; and all alcoholic beverages acquired by such persons as a necessary adjunct to the proper performance of their functions as distillers, rectifiers, brewers, or importers, and (3) the purchase and sale of warehouse receipts by brokers who do not take physical possession of alcoholic beverages covered by such receipts, or (4) the purchase and sale of any alcoholic beverage by dispensaries and other agencies operated and maintained by any State or political subdivision thereof.

(e) The term "distilled spirits" means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin and other distilled spirits for beverage use, including all dilutions and mixtures thereof.

(f) The term "alcoholic beverages" means any liquor for beverage use containing more than one-half of one percent of alcohol by volume.

(g) The term "products of the brewing industry" means beer, ale, porter, stout, and other fermented malt liquors or cereal beverages.

(h) The term "beverage use" means beverage, medicinal, culinary, or any other use, except use for industrial purposes.

(i) The term "fortified wine" means a natural wine to which has been added brandy or other distilled spirits.

(j) The term "employee" means any person engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

(k) The term "employer" means any person by whom any such employee is compensated or employed.

(l) The term "member of the industry" means any person engaged in the industry as an employer or on his own behalf.

(m) The term "Administration" means the Federal Alcohol Control Administration.

(n) The term "Code Authority" means the industry authority which may be established pursuant to this Code.

(o) The term "director" means the director of the Federal Alcohol Control Administration.

(p) The term "United States" means the several States and Territories, the District of Columbia, and Puerto Rico.

(q) The term "State" includes Territory and the District of Columbia.

(r) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to the business of the person in question.

(s) The term "subsidiary" means any person, of or over whom, a member of the industry has either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(t) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a member of the industry whether by stock ownership or in any other manner.

(u) The term "trade buyer" means any buyer of alcoholic beverage except an ultimate consumer buyer.

(v) The term "distributor" means any trade buyer except a trade buyer who distributes solely to consumers.

ARTICLE III

Mandatory Labor Provisions

Section 1. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or other mutual aid or protection.

Section 2. No employee and no one seeking employment shall be required as a condition of employment, to join any company union or refrain from joining, organizing, or assisting a labor organization of his own choosing.

Section 3. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

ARTICLE IV

Permits

Section 1. From and after such date as the Administration shall specify no person in the Alcoholic Beverage Wholesale Industry selling distilled spirits or fortified wines, shall engage in such Industry except pursuant to a permit issued by the Director. Any person desiring to engage in or who is engaged in the purchase and sale of distilled spirits or fortified wines in conformity with Federal, State, and local law shall be entitled to have such a permit issued to him upon application therefor. Where there is no existing State or local law expressly authorizing the conduct of the wholesaling of distilled spirits or fortified wines an applicant shall be entitled to receive a permit provided that in the judgment of the Administration the granting of such permit would not increase the facilities beyond that necessary for the adequate distribtuion of distilled spirits or fortified wines in such State.

Section 2. Any permit issued hereunder shall remain in effect during the duration of this Code unless suspended or revoked as hereinafter provided. Such permit shall be conditioned on the observance by the permittee of the provisions of this Code (other than the provisions of Article III) and regulations issued thereunder. Such permit shall not be taken or held to create in any permittee any vested right as to any standard of profits or volume of business, or any right to engage in the distribution of any class of alcoholic beverages after the termination of the permit.

Section 3. Any such permit may, after due notice and opportunity for hearing, be suspended or revoked by the Director, with the approval of the Administration, for violation of any term or condition thereof.

Section 4. Nothing in this Article shall be construed to limit or modify any procedure or remedy which may be available for the enforcement of the provisions of this Code.

ARTICLE V

UNFAIR METHODS OF COMPETITION (excluding products of the brewing industry)

The following practices constitute unfair methods of competition and shall not be engaged in with respect to alcoholic beverages by any member of the industry. Such practices shall not apply to the distribution of the products of the brewing industry.

Section 1. False Advertising. To publish or disseminate in any manner any false advertisement of any alcoholic beverage. An advertisement shall be deemed to be false if it is untrue in any particular, or if directly or by ambiguity, omission, or inference, it tends to create a misleading impression.

Section 2. Misbranding. To sell or otherwise introduce into commerce any alcoholic beverages that are misbranded unless the member of the industry can establish a guaranty valid under section 9 of the Food and Drugs Act or under regulations prescribed by the Administration. Alcoholic beverages shall be deemed to be misbranded -

(a) Food and Drugs Act Requirements. If they are misbranded within the meaning of the Food and Drugs Act.

(b) Standards of Fill. If their container is so made, formed or filled as to mislead the purchaser or its contents fall below the standard of fill prescribed by regulations of the Administration.

(c) Standards of Identity. If they purport to be or are represented as alcoholic beverages for which a definition of identity has been prescribed by regulations of the Administration and they fail to conform to the definition.

(d) Standards of Quality. If they purport to be or are represented as alcoholic beverages for which standards of quality have been prescribed by regulations of the Administration, and (1) fail to state on the label, if so required by the regulations, their standard

of quality in such terms as the regulations specify, or (2) fall below the standard stated on the label.

(e) Label Requirements. If in package form and they fail to bear a label conforming to such requirements as the Administration may by regulation prescribe. Regulations for the purposes of this subsection shall be prescribed by the Administration but only after due notice and opportunity for hearing to the members of the industry.

Section 3. Commercial Bribery. To give or permit to be given money or anything of substantial value for the purpose of influencing persons (a) to purchase alcoholic beverages of a particular brand or from a particular person, or (b) to refrain from purchasing from or dealing with particular persons.

Section 4. Shipment or Delivery on Consignment. To enter into any agreement (except for export) for the shipment or delivery of alcoholic beverages on consignment.

Section 5. Allowances and Rebates for Advertising and Distribution Service. To pay a trade buyer for a special advertising or distributing service, (a) unless in pursuance of a written contract defining the service to be rendered and the payment therefor; and (b) unless such service is rendered and the payment is reasonable and not excessive in amount; and (c) unless such contract is separate and distinct from any sales price and is not designed or used to reduce a sales price; and (d) unless a copy of each such contract is filed with the Code Authority. This section shall not apply to any contract made prior to the effective date of this Code.

Section 6. Guarantees Against Decline. To make or give to any purchaser of alcoholic beverages any guarantee or allowance in any form against or as a result of decline in the seller's price thereof; except pursuant to a contract made prior to the effective date of this Code.

Section 7. Prizes and Premiums. To offer any prize, premium, gift, or other similar inducement to either a trade or consumer buyer.

Section 8. Control of Retail Outlets. To hold any interest in any license for the sale of alcoholic beverages at retail for consumption on the premises; or directly or indirectly, to participate or engage in the sale of alcoholic beverages at retail for consumption on the premises; or to control, employ, manage, or financially assist in any manner, any person engaging in the retail sale of alcoholic beverages for consumption on the premises; or to hold any interest in any premises on which alcoholic beverages are sold at retail for consumption on the premises, unless the holding of such interests is permitted under regulations of the Administration or a statement thereof has been filed with the Administration and has not been disapproved by it; provided that this section shall not be held to prohibit the granting of the credits ordinarily extended by the industry with respect to the sale of alcoholic beverages.

Section 9. Sales to Unauthorized Vendors. To sell or otherwise dispose of alcoholic beverages to any person not authorized by license, in full force and effect, to sell, manufacture, or distribute alcoholic beverages, if such a license is required of such person by any State law or political subdivision thereof; or to sell or otherwise dispose of alcoholic beverages to any member of an industry covered by any code under the Act pertaining to alcoholic beverages, if such member is engaged in business without a permit in full force and effect under such code and such a permit is required by the Code, provided, however, that such sales (or other disposition) shall not be deemed a violation of the Section if such sale or disposition was made in good faith by the member of the industry.

Section 10. Violations of State Law. To transport or import alcoholic beverages into any State or political subdivision thereof for delivery, sale, or use therein in violation of the law of such state.

Section 11. Exclusive Outlets. To exact or require, by contract, understanding or otherwise, that any trade buyer who is engaged in the sale of alcoholic beverages at retail for consumption on the premises, handle or sell only the products of a particular member of the industry.

ARTICLE VI

Unfair Methods of Competition (Applicable to Products of the Brewing Industry)

The following practices constitute unfair methods of competition and shall not be engaged in by any distributor of products of the brewing industry:

Section 1. False Advertising. To publish or disseminate in any manner any false advertisement of any product of the brewing industry. An advertisement shall be deemed to be false if it is untrue in any particular, or if directly or by ambiguity, omission, or inference, it tends to create a misleading impression.

Section 2. Misbranding. To sell or otherwise introduce into commerce any product of the brewing industry that is misbranded. A product shall be deemed to be misbranded --

(a) Food and Drugs Act Requirements. If it is misbranded within the meaning of the Food and Drugs Act.

(b) Standards of Fill. If its container is so made, formed or filled as to mislead the purchaser, or its contents fall below the standard of fill prescribed by regulations of the Administration.

(c) Standards of Identity. If it purports to be or is represented as a product for which a definition of identity has been prescribed by regulations of the Administration and it fails to conform to the definition.

(d) Standards of Quality. If it purports to be or is represented as a product for which standards of quality have been prescribed by regulations of the Administration, and (1) fails to state on the label, if so required by the regulations, its standard of quality in such terms as the regulations specify, or (2) falls below the standard stated on the label.

(e) Label Requirements. If it fails to bear a label conforming to such requirements as the Administration may by regulation prescribe. Regulations for the purpose of this subsection shall be prescribed by the Administration, but only after due notice and opportunity for hearing to members of the industry.

Section 3. Commercial Bribery. To give or permit to be given money or anything of substantial value in an effort to induce agents, employees or representatives of customers or prospective customers to influence their employers or principals to purchase or contract to purchase products of the industry from the maker of such gift, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors.

Section 4. Consignment. The making of or entering into any agreement or contract the effect of which will amount to the shipment or delivery of products of the brewing industry on consignment. "Consignment", as used herein, means the delivery of products under an arrangement whereby the person receiving such products has the right at any time prior to sale to relinquish possession to or return them to the shipper and whereby the title to such products remains in the shipper.

Section 5. Allowances and Rebates for Advertising and Distribution Service. To pay or make an allowance to a trade buyer for a special advertising or distribution service (a) unless in pursuance of a written contract defining the service to be rendered and the payment therefor; and (b) unless such service is rendered and the payment is reasonable and not excessive in amount; and (c) unless such contract is separate and distinct from any sales contract and such payment is separate and distinct from any sales price and is not designed or used to reduce a sales price; and (d) unless such payment is equally available for the same service to all competitive trade buyers in the same class in the same trade area; and (e) unless a copy of each such contract is filed with the Code Authority. This section shall not apply to any contract made prior to the effective date of this Code.

Section 6. Control of Retail Outlets.

(a) Retail Licenses. To hold the ownership, directly or indirectly, after the expiration of existing licenses, of any interest in any license to sell products of the brewing industry for consumption on the premises covered by such licenses.

(b) Loans and Guarantees. To furnish, give or lend any money or other thing of value, directly or indirectly or through a subsidiary or affiliate or by any officer, director, or firm member of the industry, to any person engaged in selling products of the brewing industry for consumption on the premises where sold, or to any person for the use, benefit or relief of said person engaged in selling as above; or to guarantee the repayment of any loan or the fulfillment of any financial obligation of any person engaged in selling as above. Nothing herein contained shall affect the extension of usual and ordinary commercial credits for the products of the industry sold and delivered.

(c) Equipment and Fixtures. To furnish, give, rent, or sell any equipment, fixtures, or supplies, directly or indirectly, or through a subsidiary or affiliate, or by any officer, director, or firm member of the industry, to any person engaged in selling products of the brewing industry for consumption on the premises where sold. Nothing herein shall be construed as applying to such equipment, fixtures, or supplies furnished, loaned or rented prior to the effective date of this Code or prohibit the sale by any member of the industry or any subsidiary or affiliate thereof, of such equipment, fixtures, or supplies now owned by them and now installed in retail premises. No loan, rental or sale of any equipment, fixtures or supplies made before the effective date of this Code shall be used as a consideration for an agreement thereafter made respecting the purchase of products of the industry.

(d) (1) Signs. To furnish, give, lend or rent any interior decoration other than signs, or to furnish, give, lend or rent any sign or signs, for inside or outside use, costing collectively more than $100 in any one calendar year by any member of the industry, directly or indirectly, or through a subsidiary or affiliate, or by any officer, director, or firm member of the industry, for use in or about or in connection with any one establishment on which products of the brewing industry are sold for consumption on the premises where sold, provided that nothing herein shall affect existing sign or signs under uncancellable order costing not more than $400 each, if within 40 days after the effective date of this Code, a list of such uncancellable orders, as have been placed by him, is filed by the member of the industry with the Code Authority.

(2) To pay money or other thing of value for the privilege of placing or painting a sign on the premises occupied by any one selling products of the brewing industry for consumption on the premises where

sold. Nothing herein shall be construed as prohibiting the payment or rental for signs installed or painted under contract prior to the effective date of this Code.

(e) Ownership of Real Estate. To hold any interest in any premises acquired after the effective date of this Code on which products of the brewing industry are sold at retail for consumption on the premises where sold unless the holding of such interest is permitted under regulations of the Administration, or a statement of the holding thereof has been filed with the Administration and has not been disapproved by it.

Section 7. Guarantees Against Decline. To make or give to any trade buyer any guarantee or allowance in any form against or as a result of decline in the seller's price.

Section 8. Exclusive Outlets. To exact or require, by contract, understanding or otherwise, that any retail trade buyer handle or sell only the products of a particular member of the industry.

Section 9. Prizes and Premiums. To offer any prize, premium, gift or other similar inducement, except advertising novelties of nominal value, to either trade or consumer buyers.

Section 10. Sales to Unauthorized Vendors. After notification by the Code Authority, to sell or otherwise dispose of products of the brewing industry to any person who has been declared by the Code Authority to be not authorized by license in full force and effect, to sell, manufacture or distribute such products, if such a license is required of such person by State law.

Section 11. Violations of State Law. To transport or import products of the industry into any State or political subdivision thereof for delivery, sale, or use therein, in violation of the law of such State.

ARTICLE VII

Bottling

Section 1. Members of the industry shall sell or dispose of distilled spirits in bottles only, except in case of sales to rectifiers or blenders or to dispensaries or other agencies operated and maintained by any State or political subdivision thereof, or for export or for shipment in bond. Nothing in this section shall restrict the sale or other disposition of warehouse receipts covering distilled spirits in bond, provided such receipts require the bottling of the distilled spirits before or after tax payment and prior to shipment by the warehouseman.

ARTICLE VIII

Prices and Terms of Sale
(Except for products of the brewing industry)

Section 1. Each member of the industry shall publish and, to the extent required by regulations of the Administration or of the Code Authority, keep posted with the Code Authority, in accordance with regulations prescribed by it and approved by the Administration, (a) all the brands and types of alcoholic beverages except products of the brewing industry offered for sale by such member, (b) the sale price thereof to various classes of trade buyers, and (c) all discounts and other terms of sale of such alcoholic beverages except products of the brewing industry.

The term "publish" as used herein means the making available of a price list of each member of the industry, to his trade and consumer buyers.

Section 2. The Code Authority, if required by the Administration, shall file with it a copy of each price list so posted. The Code Authority may upon request, make available such price lists to trade and consumer buyers.

Section 3. No sale or other disposition of alcoholic beverages except products of the brewing industry shall be made by any member of the industry except in accordance with its prices and terms so published, posted, and in effect.

Section 4. No member of the industry shall publish, post or keep posted any price or term which (a) will constitute destructive price cutting, or (b) be so high as to encourage, directly or indirectly, the sale of alcoholic beverages except products of the brewing industry in violation of law, or (c) be oppressive to the consumer. A published or posted price or term shall not be held to be in violation of this section unless it is kept available or posted after it has been declared ineffective by the Code Authority or the Administration, as hereinafter in this Article provided.

Section 5. If, after investigation, the Code Authority finds that any price or term published or posted under this Article is not in conformity with the requirements of Section 4, it shall, with the approval of the Administration, declare such price or term ineffective.

Section 6. If the Administration is of the opinion that the prices or terms published or posted for any class or type of alcoholic beverages except products of the brewing industry are contrary to the requirements of Section 4, it may report such fact to the Code Authority. If the Code Authority does not within ten days take action acceptable to the Administration, the Administration may then declare such prices or terms ineffective, if it finds that they are not in conformity with the requirements of Section 4.

Section 7. The payment by any member of the industry of allowances or rebates, refunds, concessions, or discounts, whether in the form of money or otherwise, not conforming with the prices and terms as disclosed in the published or posted price list of sale, is prohibited.

Section 8. The posting or publishing of any false or fictitious price list, or the use of invoices which falsely indicate prices, discounts, or terms of any sale, or the inserting in any invoice of statements which make the invoice a false record, wholly or in part, of the transaction represented on the face thereof, or the withholding from any invoice of statements which properly should be included therein, so that, in the absence of such statement, the invoice does not truly reflect the transaction involved, is prohibited.

ARTICLE IX

Prices and Terms of Sale
(Applicable to Products of the Brewing Industry)

Section 1. Each distributor of products of the brewing industry shall keep posted with the Code Authority, in accordance with regulations prescribed by the Code Authority and approved by the Administration, and upon request make available to trade and consumer buyers a price list which shall set forth (a) all the brands and types of products of the brewing industry offered for sale by such distributor, (b) the sale price thereof to various classes of trade buyers, and (c) all discounts and other terms of sale, other than usual periods of credit, of such trade products. No change in a posted price list shall be effective until 10 days after such change has been posted.

Section 2. The terms of sale so posted shall include provisions that no delivery of any hogsheads, barrels, kegs or cases shall be made without collecting for the container, or (if the distributor of products of the brewing industry does not pass title thereto, without a deposit therefor) at the time collection is made of the price for the product of the industry sold. The amounts so collected or deposited shall not be less than such amounts as the Code Authority, with the approval of the Administration, shall prescribe.

Section 3. No sale or other disposition of products of the brewing industry shall be made by any distributor of products of the brewing industry except in accordance with its prices and terms so posted and in effect.

Section 4. (a) No distributor of products of the industry shall post or keep posted any price or term which (1) will constitute destructive price cutting or dumping, or (2) be so high as to encourage, directly or indirectly, the sale of trade products in violation of law, or (3) be oppressive to the consumer.

(b) A price or term posted by distributors shall constitute dumping if it permits the sale of a product of the brewing industry in any territory of sale outside the territory in which is located the principal place of business of the distributor at a price which is both (1) lower than the comparable price posted by any other distributor or by any member of the brewing industry in such outside territory for a product of similar quality; and (2) lower than the lowest comparable price for the same product posted by the distributor in the territory in which is located his principal place of business. In no event shall the price or term so posted be deemed to constitute dumping if such price or term is fair and reasonable in view of the prevailing conditions within the territory of sale, including the general level of prices for the product. For the purposes of this subsection the area covered by a territory, if territorial differentiations in price are made by the distributor, shall be specified in the price list posted by the distributor.

(c) A posted price or term shall not be held to be in violation of this section unless it is kept posted after it has been declared ineffective by the Code Authority or the Administration, as hereinafter in this Article provided.

Section 5. If, after investigation, the Code Authority finds that any price or term posted under this Article is not in conformity with the requirements of Section 4, it shall, with the approval of the Administration, declare such price or term ineffective.

Section 6. If the Administration is of the opinion that the prices or terms posted for any brand or type of products of the brewing industry are contrary to the requirements of Section 4, it may report such fact to the Code Authority. If the Code Authority does not within 10 days take action acceptable to the Administration, the Administration may then declare such prices or terms ineffective, if it finds that they are not in conformity with the requirements of Section 4.

Section 7. The making of any sale or delivery, except sale or deliveries to the home, without a written invoice is prohibited.

Section 8. The payment by any member of the industry of allowances or rebates, refunds, concessions, or discounts, whether in the form of money or otherwise, not conforming with the prices and terms of sale, as disclosed in the posted price list, is prohibited.

Section 9. The posting or publishing of any false or fictitious price list, or the use of invoices which falsely indicate prices, discounts or terms of any sale, or the inserting in any invoice of statements which make the invoice a false record, wholly or in part, of the transactions represented on the face thereof, or the withholding from any invoice of statements which properly should be included therein so that, in the absence of such statements, the invoice does not truly reflect the transaction involved, is prohibited.

ARTICLE X

Reports

Section 1. The members of the industry shall severally, from time to time, upon the request of the Administration (or the National Recovery Administrator in case of information relating to hours of labor, rates of pay, or other conditions of employment) furnish such information on and in accordance with forms of reports to be supplied, as may be deemed necessary for the purposes of (a) assisting in the furtherance of the powers and duties of the Administration or the National Recovery Administrator with respect to this Code, or (b) enabling the Administration or the National Recovery Administrator to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Code will be effectuated, such reports to be verified under oath.

Section 2. The members of the industry shall severally permit, for the same purposes or to enable the Administration or the National Recovery Administrator to verify the information furnished on said forms of reports, all their books and records and the books and records of their affiliates and subsidiaries, to be examined by the Administration or the National Recovery Administrator during the usual hours of business.

Section 3. Each member of the industry shall severally keep books and records which will clearly reflect all financial transactions of his business and the financial condition thereof and such other matters relating to the business of the member as the Administration may by regulation prescribe, and shall require that his subsidiaries and affiliates keep such records.

Section 4. All information furnished the Administration pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration.

ARTICLE XI

Code Authority

Section 1. There shall be a Code Authority selected by the members of the industry pursuant to a plan submitted by members of the industry and approved by the Administration. The members of the Code Authority shall be subject to the approval of the Administration and shall be subject to removal in the discretion of the Administration. The powers and duties of the Code Authority shall be as follows:

(a) To administer the provisions of this Code (except as otherwise provided) subject to the approval of the Administration and to foster and promote the observance of this Code by the members of the industry.

(b) To prescribe rules for the performance of its functions subject to the approval of the Administration.

(c) To recommend to the Administration amendments to this Code.

(d) To cooperate with and assist the Administration, as the Administration from time to time may request, in carrying out its functions under this Code.

(e) To make reports to the Administration from time to time on problems relating to the industry affecting the administration of this Code.

(f) To receive and investigate charges of apparent violation of this Code and to report to the Administration its findings of fact on such charges.

This paragraph shall not be construed to derogate from or limit the powers of the Administration to investigate apparent violations of this Code and to take such action in the premises as it deems desirable.

Section 2. There shall be a Committee of the Code Authority known as the Brewing Products Distributors' Committee. It shall be composed of members of the industry who are engaged in the distribution of products of the brewing industry selected in accordance to a plan approved by the Federal Alcoholic Control Administration. This Committee shall have delegated to it by the Code Authority, in accordance with a plan approved by the Federal Alcoholic Control Administration, those duties and powers necessary for it to administer the provisions of Articles VI and IX.

Section 3. If the members of the industry fail to submit a plan under Section 1 and 2 within thirty days after the effective date of this Code or the plan submitted is not approved by the Administration, then the Administration may establish and provide for the selection of the members of the Code Authority according to a plan prescribed by the Administration.

ARTICLE XII

Federal Alcohol Control Administration

Section 1. The Administration shall prescribe such regulations as may be provided for in this Code or as may be reasonably necessary to carry out the provisions of this Code which it is authorized to administer, and may make such interpretations of such provisions and regulations as it deems necessary. Such regulations and interpretations shall have the same force and effect as the provisions of this Code.

Section 2. If the Administration is of the opinion that the Code Authority has failed to take any action which the Administration deems necessary to administer the provisions of this Code, the Administration may so report to the Code Authority. If the Code Authority does not within such time as the Administration deems proper, take action relating to such report which the Administration deems adequate, the Administration shall take such action as it may deem necessary to administer such provisions.

Section 3. The Administration may investigate any apparent violations of the provisions of this Code and may take such action in the premises as it deems necessary.

ARTICLE XIII

Duration of Immunities

Section 1. The benefits, privileges and immunities conferred by this Code shall cease upon its termination except with respect to acts done prior thereto.

ARTICLE XIV

Agents

Section 1. The Administration and the National Recovery Administrator may by designation in writing name any person, including any officer or employee of the Government, to act as agent in connection with their respective powers and duties under this Code.

ARTICLE XV

Modification

Section 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of Section 10 (b) of the Act, from time to time, to cancel or modify any order, approval, license, rule or regulation, issued under the Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval, of the Code or any conditions imposed by him upon his approval thereof.

ARTICLE XVI

Application of Code to Other Industries

Section 1. If any member of the industry is also engaged in any other industry or trade, the provisions of this Code shall apply

to and affect only that part of the business of such member of the industry which is included in the alcoholic beverage wholesale industry.

ARTICLE XVII

Effective Time

Section 1. This Code shall become effective on the day following its approval by the President.

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LIBRARY

UNITED STATES DEPARTMENT OF AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

MARKETING AGREEMENT FOR

THE ALCOHOLIC BEVERAGES IMPORTING INDUSTRY

MARKETING AGREEMENT FOR THE

ALCOHOLIC BEVERAGES IMPORTING INDUSTRY

ARTICLE I

Purposes

The parties to this agreement are the contracting importers and the Secretary of Agriculture of the United States.

WHEREAS, it is the declared policy of Congress as set forth in Section 2 of the Agricultural Adjustment Act, approved May 12, 1933, as amended -

(a) To establish and maintain such balance between the production and consumption of agricultural commodities and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of agricultural commodities in the base period, the base period in the case of all agricultural commodities except tobacco being the pre-war period, August 1909-July 1914, and in the case of tobacco, the base period being the post-war period, August 1919-July 1921;

(b) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets; and

(c) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer above the percentage which was returned to the farmer in the pre-war period, August 1909-July 1914;-

And -

Whereas, pursuant to the Agricultural Adjustment Act, the parties hereto, for the purpose of establishing and maintaining such conditions in the importing of intoxicating liquors as will aid in maintaining a balance between the consumption and production of domestic agricultural commodities ordinarily used in the manufacture of intoxicating liquors, of removing agricultural surpluses, and of otherwise effectuating the declared policy of the Act, desire to enter into a marketing agreement under the provisions of Section 8 (2) of the Act;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE II

Definitions

Section 1. As used in this Agreement, -

(a) The term "Secretary" means the Secretary of Agriculture of the United States.

(b) The term "Act" means the Agricultural Adjustment Act, approved May 12, 1933, as amended.

(c) The term "person" means individual, partnership, corporation, association and any other business unit.

(d) The term "alcoholic beverages" means "alcohol" or alcoholic beverages", except beer, ale, porter, stout, or other fermented malt liquors or cereal beverages.

(e) The term "contracting importers or importer" means any person, a party signatory to this Agreement according to the terms thereof, who is engaged in the importing into the United States of alcoholic beverages for sale or any other commercial purpose.

(f) The term "United States" includes the United States and its possessions, except the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone and the Island of Guam.

(g) The term "foreign countries" means all countries other than the United States, and includes the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the Island of Guam.

(h) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, correspondence or other written data pertaining to the business of the person in question.

(i) The term "subsidiary" means any person, of or over whom, the contracting distributor or contracting producer has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(j) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a contracting distributor or contracting producer, whether by stock ownership or in any other manner.

(k) The term "Administration" means the Federal Alcoholic Beverages Administration established pursuant to the provisions of the Code of Fair Competition for the Distilled Spirits Industry.

(l) The term "Code Authority" means the authority established pursuant to Article V of the Code of Fair Competition for the Alcoholic Beverages Importing Industry.

ARTICLE III

CONDITIONS OF IMPORTATION

Section 1. Each contracting importer agrees not to import or bring into the territorial limits of the United States any alcoholic beverage (except in customs bond for trans-shipment to a foreign country) otherwise than in accordance with a permit issued pursuant to this Article.

Section 2. From time to time the Secretary of Agriculture and the Secretary of the Treasury shall jointly determine and report to the issuing authority the kinds and amounts of alcoholic beverages permitted to be imported into the United States from each foreign country. The minimum amount of any kind of alcoholic beverages that may be imported into the United States from any foreign country during any period, shall not be less than the average amount for a like period imported between July 1, 1910, to June 30, 1914; provided that with respect to any foreign country as to which no such minimum exists or for which the minimum is inconsiderable in amount, there shall be determined a minimum amount that is equitable in view of prevailing conditions.

Section 3. The Administration is hereby vested with authority to issue such permits; except that for the first permit period, such permits shall be issued by a permit committee composed of one representative of the Treasury Department and one representative of the Department of Agriculture to be designated by the respective Secretaries thereof.

Such permits shall be issued to importers on the basis of the reasonable and legitimate trade needs of the applicant, and upon the financial and commercial ability of the applicant to carry on this business, which the applicant shall satisfactorily demonstrate to the issuing authority. The total of such permits, as far as practicable, shall not exceed the quota determined pursuant to Section 2 of this Article.

Section 4. Each permit issued shall specify (a) the kinds and amounts of alcoholic beverage to be imported thereunder, (b) the country from which such beverage may be brought, (c) the period during which importation may be made thereunder, and (d) such other terms and conditions as the issuing authority deems necessary. Permits shall be issued only upon application by the importer to the issuing authority, in accordance with such regulations as the issuing authority may prescribe. The action of the issuing authority with respect to any such application shall be final and conclusive.

ARTICLE IV.

Reports

Section 1. The contracting importers shall severally, from time to time, upon the request of the Administration furnish such information, on and in accordance with forms of reports to be supplied, as may be necessary for the purposes of (1) assisting the Administration in the furtherance of its powers and duties with respect to this Agreement, and/or (2) enabling the Administration to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Agreement will be effectuated, such reports to be verified under oath.

Sec. 2. The contracting importers also severally agree that, for the same purposes, and/or to enable the Administration to verify the information furnished on said forms of reports, all their books and records, and the books and records of their affiliates and subsidiaries, shall during the usual hours of business be subject to the examination of the Administration.

Sect. 3. Contracting importers shall severally keep books and records which will clearly reflect all financial transactions of their respective businesses and the financial condition thereof, and shall require their respective affiliates to keep such books and records.

Sec. 4. All information furnished the Administration pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration.

ARTICLE V.

Administration
Agreement

Section 1. Provisions of this shall be administered by the Federal Alcohol Control Administration

Sec. 2. The Administration shall prescribe such regulations as may be reasonably necessary to carry out the provisions of this Agreement, and may make such interpretations of such provisions and regulations as the Administration deems necessary. Such regulations and interpretations shall have the same force and effect as the provisions of this Agreement.

Sec. 3. The Administration may utilize the services of the Bureau of Customs and other agencies of the Government in administering its functions under this Agreement. The Secretary of Agriculture may transfer to the Administration or any such agency, out of funds available for administrative expenses under the Agricultural Adjustment Act, such monies as may be necessary to pay administrative expenses incurred by the Administration or such agencies in carrying out the provisions of this Agreement.

Sec. 4. The contracting importers agree, through the agency of the Code Authority established pursuant to the Code of Fair Competition for the Alcoholic Beverages Importing Industry, to cooperate with the Administration in carrying out this Agreement; and to this end the Code Authority shall have the following powers and duties; (a) to act as an agency through which the contracting importers may make recommendations to effectuate the declared policy of the Act, including recommendations as to allocation of import quotas to particular importers; and (b) serve as one of the agencies through which reports of apparent violations of this Agreement may be received and reported to the Administration; in addition, the Code Authority shall have such powers and duties with respect to this Agreement as may be prescribed by regulations of the Administration. None of the foregoing powers of the Code Authority shall be deemed to limit the powers of the Administration.

Sec. 5. The Administration shall report to the Attorney General and the Secretary for appropriate action by them the facts found by the Administration with respect to any violation of this Agreement.

ARTICLE VI.

Licensing

Sec. 1. The contracting importers hereby apply for and consent to licensing by the Secretary, subject to the applicable General Regulations, Agricultural Adjustment Administration.

ARTICLE VII.

Effective Time

Sec. 1. This Agreement shall become effective at such time as the Secretary may declare above his signature attached hereto, and this Agreement shall continue in force until terminated as follows:

(a) The Secretary may at any time terminate this Agreement as to all parties thereto by giving at least one day's notice by means of a press release or in any other manner which the Secretary may determine.

(b) The Secretary may at any time terminate this Agreement as to any party signatory thereto, by giving at least one day's notice, by depositing the same in the mail and addressed to such party at his last known address.

(c) The Secretary shall terminate this Agreement upon the request of 75 percent of the contracting importers, such percentage to be measured by the volume of imports, by giving notice in the same manner as provided in paragraph (a) above.

(d) This Agreement shall in any event terminate whenever the provisions of the Act authorizing it cease to be in effect.

ARTICLE VIII.

Immunities

Section 1. The benefits, privileges, and immunities conferred by virtue of this Agreement shall cease upon its termination, except with respect to acts done prior thereto; and the benefits, privileges and immunities conferred by this Agreement upon any party signatory hereto shall cease upon its termination as to such party except with respect to acts done prior thereto.

Section 2. This Agreement shall not be held to relieve any contracting importer from compliance with any law relating to intoxicating beverages or any applicable marketing agreement, license, or code of fair competition pursuant to Act of Congress.

ARTICLE IX.

Counterparts

Section 1. This Agreement may be executed in multiple counterparts, which when signed by the Secretary shall constitute, when taken together, one and the same instrument as if all such signatures were contained in one original.

ARTICLE X.

Additional Parties

Section 1. After this Agreement first takes effect any person not a party thereto who is engaged in the importation of intoxicating liquors, may become a party to this Agreement, if a counterpart thereof is executed by him and by the Secretary. This Agreement shall take effect as to such new contracting party at such time as the Secretary may declare above his signature attached to such counterpart, and the benefits, privileges, and immunities conferred by this Agreement shall then be effective as to such new contracting party.

ARTICLE XI.

Agents

Section 1. The Secretary or the Administration may by designation in writing, name any person, including any officer or employee of the Government, to act as his or their agent in connection with carrying out their respective functions under any of the provisions of this Agreement.

ARTICLE XII.

Signatures of Parties

In witness whereof the contracting parties, acting under the provisions of the Agricultural Adjustment Act, for the purposes and subject to the limitations herein contained, and not otherwise, have hereunto set their respective hands and seals.

_____

_____

_____

Whereas, it is provided by Section 8 of the Act as follows:

> In order to effectuate the declared policy, the Secretary of Agriculture shall have power to enter into marketing agreements with processors, associations of producers, and others engaged in the handling in the current of interstate and foreign commerce of any agricultural commodity or product thereof, after due notice and opportunity for hearing to interested parties. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States and any such agreement shall be deemed to be lawful: Provided, that no such agreement shall remain in force after the termination of this Act;

And--

Whereas, due notice and opportunity for hearing to interested parties has been given pursuant to the provisions of the Act, and the regulations issued thereunder: and

Whereas, the Secretary finds that the contracting importers are engaged in the handling of intoxicating liquors in the current of foreign commerce; and

Whereas, it appears, after due consideration, that this agreement will tend to effectuate the policy of Congress declared in Section 2 of the Act, as hereinbefore in this Agreement set forth:

Now therefore, I, Henry A. Wallace, Secretary of Agriculture, acting under the provisions of the Agricultural Adjustment Act, for the purpose and within the limitations therein contained, and not otherwise, do hereby execute this Agreement under my hand and official seal of the Department of Agriculture, in the city of Washington, D. C. on this _____ day of _____, and pursuant to the provisions hereof declare this Agreement to be effective on and after _____ eastern standard time, _____.

(SEAL)

_____
Secretary of Agriculture